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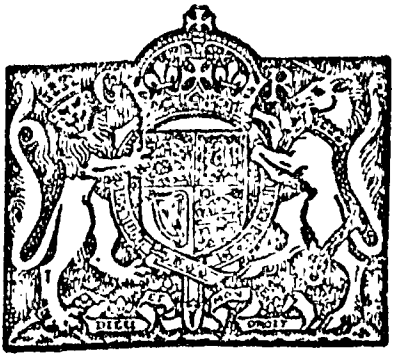

INDIAN STATUTORY COMMISSION

VOLUME III

Reports of the Committees

appointed by the

Provincial Legislative Councils

TO CO-OPERATE WITH THE
INDIAN STATUTORY COMMISSION

Presented by the Secretary of State for the Home Department to Parliament by Command of His Majesty. May, 1930.

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LIST OF VOLUMES.

VOLUME I.—REPORT (SURVEY).

VOLUME II.—REPORT (RECOMMENDATIONS).

VOLUME III.—Reports of the Committees appointed by the Provincial Legislative Councils to co-operate with the Commission.

IV.—Memoranda submitted by the Government of India and the India Office. (Part I.)

V.— Do. (Part II.)

VI.—Memorandum submitted by the Government of Madras.

VII.— Do. do. Bombay.

VIII.— Do. do. Bengal.

IX.— Do. do. United Provinces.

X.— Do. do. Punjab.

XI.— Do. do. Burma.

XII.— Do. do. Bihar and Orissa.

XIII.— Do. do. Central Provinces.

XIV.— Do. do. Assam.

XV.—Extracts from official oral Evidence.

XVI.—Selections from memoranda and oral Evidence by non-officials (Part I).

XVII.— Do. (Part II).

See also

(1) Report of the Indian Central Committee—issued as Command Paper No. 3451 of 1929; and

Supplementary Note by Dr. A. Suhrawardy, M.L.A.—issued as Command Paper No. 3525 of 1930.

(2) Review of Growth of Education in British India by the Auxiliary Committee appointed by the Commission—issued with Interim Report by the Commission as Command Paper No. 3407 of 1929.

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1. Introduction.

This Committee has been elected by the Madras Legislative Council in accordance with the following resolution passed by the Council on the 4th September, 1928 :—

" That for the purpose of jointly conferring with the Indian Statutory Commission on the terms stated in the letters of the Chairman of the Commission to His Excellency the Viceroy, dated the 6th February, 1928 and the 28th March, 1928, and in the further announcement published by the Government of India on the 23rd June, 1928, this Council do proceed to elect seven representatives in accordance with the regulations made by the Honourable the President under Standing Order No. 77 for the holding of elections by means of the single transferable vote;

" Provided (*a*) that the representatives so selected should be allowed absolutely the same status and powers as regards the examination of witnesses and access to confidential papers and documents, and (*b*) that they should submit their report to the Legislative Council for an expression of its opinion before the same is submitted to the Commission with a copy of the proceedings of the Council in connexion therewith."

The members of the Committee are—

Rao Bahadur Sir A. P. Patro, *Kt.*
Diwan Bahadur S. Kumaraswami Reddiyar.
The Kumararaja of Venkatagiri.
Khan Bahadur P. Khalif-ul-lah Sahib Bahadur.
Mr. Daniel Thomas.
Mr. P. Siva Rao.
Mr. N. Siva Raj.

The Committee elected Sir A. P. Patro as Chairman. The Committee has held 25 meetings to discuss procedure and to study and form conclusions from 195 memoranda sent from this Presidency as well as 24 memoranda received from the Government of India, 4 from the India Office, 10 of All-India interest from associations and individuals and 4 from Provincial Governments in the rest of India. It has also studied the evidence recorded before the Commission and its Committees in the other provinces. It sat with the Statutory Commission and the Indian Central Committee in February, 1929 at Madras when twelve associations and fourteen individuals from this Presidency were examined as witnesses. At the end of March, it had the benefit of meeting the other Provincial Committees at Delhi and having an informal discussion with them on matters of common interest. There was also a final conference with the Indian Statutory Commission and the Indian Central Committee from the 2nd to the 4th of April.

It is a matter of regret that certain sections of political opinion in the country have not seen their way to give evidence before the Commission. Their evidence also would have been helpful. The Committee, however, trusts that these sections will avail themselves of further opportunities of placing their views before the Joint Parliamentary Committee which will consider the proposals for Indian constitutional reforms.

The Committee came to its final conclusions by the 1st of June and submits the following report to the Indian Statutory Commission through the Madras Legislative Council.

GENERAL SURVEY.

2. Need for Political Change.

It appears to the Committee that there has been a fundamental defect in the manner in which the question of future constitutional reforms has been generally approached during the enquiry before the Indian Statutory Commission. The memoranda that have been furnished, whether by Governments or by non-officials, have mainly dealt with the working of dyarchy during the last nine years and based proposals thereon. Dyarchy itself was introduced as the result of conditions found and described in 1918 by Mr. Montagu and Lord Chelmsford in their Report on Indian Constitutional Reforms. The motive force for political progress now is derived not primarily from the manner in which dyarchy has worked, but from the conditions which compelled the introduction of dyarchy itself. Dyarchy was a method of advance introduced in 1920 by the decision of the Parliament of Great Britain. In spite of its obvious defects, some political parties in India have accepted it as workable and have worked it. Others have been of opinion that it cannot satisfy the political aspirations of India and have declined to work it. But whatever be the attitude towards dyarchy, what is now needed for the purpose of determining future political advance is a re-investigation of the forces which demanded political progress in 1918. If these forces are to-day as insistent for political progress as they were in 1918, it is a matter of little importance whether dyarchy has been successful or not.

The main issues in the political field to-day are whether there is a need for political advance and, if so, what is the extent to which it is desirable to go. When these issues are answered, the methods for carrying out changes have to be considered. We ignore here the possibility of political retrogression as it is not practical politics.

First let us summarise the reasons for which Montagu and Chelmsford considered political advance on a large scale necessary in 1918 :

(1) *Political dissatisfaction.*

People objected to executive measures of Government as repressive; they demanded liberal institutions of Government; they demanded an improved status in the Empire. (Montford Report, pages 7 to 10.)

(2) *Social Stagnation.*

The people's zeal for social reform was not satisfied by the Government (Montford Report, page 9). England, through excess of caution proper to its regime, may be actually perpetuating and stereotyping customs which the better mind of India may deem necessary to modify. A Government in which Indians themselves participate, invigorated by a closer touch with a more enlightened popular opinion, may be able to effect what under the present system has to be rigorously eschewed. (Montford Report, pages 97, 98.)

(3) *Administrative weakness.*

The Parliament, though competent to do so, does not make a custom of interfering with the administration of India (Montford Report, page 20). The official system in India, while it has its strength, has also its weakness. Montagu and Chelmsford speak of it thus: " Its weaknesses are, we conceive, equally apparent. It is humanly impossible for the district officer to control the whole business of Government and to look after his army of subordinates as closely as is required. His utmost vigilance and energy do not suffice to prevent petty corruption and oppression from disfiguring official business. The people are slow to complain and prefer to suffer rather than to have the trouble of resisting. The mischief is being slowly remedied with the improvement of the subordinate services. It could be remedied further at great expense by decreasing district areas and increasing the supervising staff. But there can be no general improvement except through the awakening of public opinion which we believe that our reforms will stimulate. Strong as it is, the official system is too weak to perfect the enormous task before it without the co-operation of the people." (Montford Report, page 81.)

(4) *Lack of moral and material progress.*

Efficiency of administration may be too dearly bought at the price of moral inanition (Montford Report, page 100). Education is backward and to a large degree lifeless, but popular government in India as elsewhere is sure to promote the progressive spread of effective education and so a widening circle of improvement will be set up. (Montford Report, pages 98, 119.)

(5) *Moral forces.*

The Great War has given India a new self-esteem. India has taken up the demand for self-determination emphasised during the war (Montford Report, pages 13, 14). British policy in India has been steadily directed to a point at which the question of a self-governing India was bound to arise. The sheltered existence which England has given India cannot be prolonged without damage to her national life. There is a spirit of liberty that is stirring in Asia and India cannot be left behind. (Montford Report, page 93.)

This is a fair analysis. The Committee would, however, like to present the picture as regards the lack of moral and material progress a little more fully.

Montagu and Chelmsford have summed up the achievement of district administration as that of giving the country people "peace and justice and making their life easier." The Committee gratefully recognise the magnificent work done by England in establishing peace and order in a country torn by internecine strife. We recognise the high standards of character and justice which Englishmen have so well maintained in India. All this is to the lasting credit of England. But where England has failed is in providing for the growth of India. The activities of a few Englishmen are not adequate to permeate the large area and the large population of this country. Their administration is necessarily very centralised. We are quite aware that they have sought to "promote the material prosperity of the country by the construction of great works of irrigation, by the improvement of the means of communication and transport, by the opening up of the markets of the world to the produce of India and by the extension of facilities for trade and commerce." But ninety per cent. of the people of India live in villages and the villager is very poor. He is ignorant. He lives in insanitary surroundings. The benefits of European knowledge have hardly reached him. The day's work can alone give him his food for the next day. Famine finds him with no resisting power. It is true to say that after the British Empire has lasted in India for 170 years—a period as long as that of the Moghal Empire from Babar to Aurangzeb—British administration has not yet vivified the village. Peace is good, but when for the large mass of the people it is not coupled with economic progress, it is but barren.

We are grateful again to England for the political unity which she has created in India. India has long sought and fairly established a cultural unity. But it is to the credit of England that for the first time in the history of India, India has become a political unit. This has, however, enhanced the international status of Britain, but hardly that of India. In spite of India being a member of the League of Nations, her representatives in the Councils of the League voice the opinions not of the

people of India, but of the people of Britain. The status of Indians abroad is hardly as good as that of the nationals of less important Asiatic countries. Again, England has introduced Indians to the glorious ideals of liberty and self-government that are enshrined in English history, but she has not yet fully succeeded in enabling Indians to realise them; and in the absence of such a realisation, the selfless patriotism of villagers and of educated townsmen without which, in the opinion of the Royal Commission on Agriculture, " hope of radically improving the amenities of the village must be abandoned " will not be available.

England has kept an impartial field for all religions and castes and communities in India. But the world is rapidly developing in ideals and ways of life. India's social system developed in a unique manner when she was more or less isolated from the rest of the world. But with the development of communications by sea her geographical isolation is rapidly ceasing to be. It will no longer do for India to hug her own social system and not bring it into harmony with that of other nations. It is Indians that can have the vision, the courage and the sureness of grip necessary to reshape Indian society.

These causes which in 1918 necessitated a large political change have now become intensified in strength. Moreover, the progress made in the last 10 years under Indian direction in education, local self-government and in general enterprise amply justifies further political advance. It is unnecessary to refer in detail to new national forces which have arisen in these 10 years. If large political progress was necessary in 1918, it is even more so in 1929.

In order that there may be national progress, the people of India must be entrusted with the power to govern themselves. It may be asked who are the people of India referred to. They are the conscious part of India—a part that is steadily growing. It is not in accordance with the teaching of history that England should wait to transfer political power till the whole body of the Indian people is conscious. The same force by which the conscious part of India seeks and hopes to gain political power will also spread that power to the rest of India.

The claim for Dominion status for India is based on justice as well as on the national demand. The strength of England's rule in India has been based not so much on her physical power as on her moral qualities. We believe that in the long run moral strength is more powerful than physical strength and that it is in the interests of England herself to satisfy the just aspirations of India.

The claim of the people of India to self-government has, indeed, been conceded by His Majesty's Government in the announcement made in the House of Commons by the Secretary of State for India on the 20th August, 1917.

3. Working of Dyarchy in Madras.

Dyarchy was proposed by Montagu and Chelmsford partly as a training ground for political responsibility and partly as a test of political fitness. That the system was a hybrid, and therefore clumsy and illogical, was admitted. But such defects were considered not to be insuperable obstacles to trying a transitional system. The difficulties of the system were held to be compensated for by the minimising of risks in the new experiment.

There are certain conditions necessary if dyarchy is to work successfully. The Ministry has to be supported by a majority in the Council. There should be unity among the Ministers. There should be co-operation between the Ministry and the Executive Council. The powers of the Governor have to be exercised with tact and foresight. There should be a constitutional opposition ready to take up office if the Ministry fails.

In Madras, these conditions have been fairly satisfied. There has been considerable co-operation of the reserved and transferred halves of the Government and the inherent difficulties of dyarchy were minimised by the tact and good sense of the Executive Councillors and Ministers under the guidance of the Governor. But the strain on co-operation under such difficult conditions and depending unduly on the personnel of the Government has been such that nobody from either half of the Government is in favour of continuing the system any longer. Dyarchy intended to be transitional and experimental has served its purpose in the Provincial Government and should now be replaced by a unitary form of Government.

It is impossible to revert to the pre-Reforms type of Government. As already pointed out, it was the need for changing such a form of Government that led to the introduction of dyarchy. If dyarchy is to go, the only alternative is full responsible Government in the province. There is a strong volume of opinion in this Presidency, supported, we are glad to note, by the Madras Government, that all provincial subjects now reserved should be transferred. The only subject about the transfer of which there has been any appreciable difference of opinion in the country is that of Law and Order. In this Presidency there has never been an occasion when the Legislative Council did not give adequate support to the Executive Councillor in charge of Law and Order. The subject has been in charge of an Indian Councillor all through the period of the Reforms and it has nowhere been asserted that it has suffered from being so. In regard to the passing of Bills, in regard to the resolutions moved in the Council, in regard to adjournment motions, in regard to cut motions and in regard also to occasions when Law and Order were seriously threatened—e.g., the Mappilla rebellion and the Guntur civil disobedience campaign—the Council has not on a single occasion given room for the

Government complaining as to lack of full support. The Madras Government have stated in their memorandum to the Commission that the Legislative Council " has rendered full assistance to the Executive in all measures intended to preserve the peace and order of the country." There can be no ground whatever for the apprehension that the Council will be any the less vigilant for the maintenance of law and order when the subject is in charge of a responsible Minister.

In regard to the work done by the Ministers in charge of transferred subjects, Madras has a good record if allowance is made for the short time they have been in charge and the financial difficulties they had to face soon after the war. There has been considerable progress in the working of local self-government. District and Taluk Boards and Municipal Councils have been almost completely democratised and deofficialised. There has been a considerable growth of Village Panchayats elected under adult franchise. All these bodies have been given increased powers of taxation and expenditure. Local bodies have not been slow in tapping new sources of revenue and their revenues have generally kept pace with growing expenditure. The percentage of voters who have participated in elections has steadily risen. There has been steady progress in the domains of education, public health, sanitation and medical relief. Communications—particularly rural communications—have been extended. Fresh schemes of water-supply have been introduced. Free and compulsory education has been introduced in several areas. Adult schools and circulating libraries have largely increased. Special encouragement has been given to the depressed classes in regard to education, housing schemes and water-supply. As has been stated by an experienced Indian official, Diwan Bahadur T. Raghaviah, C.S.I., " If occasionally there is some inefficiency or financial dislocation, it is due to want of executive experience on the part of non-official presidents not armed with prestige and backed by a hierarchy of official subordinates and to the incomplete adjustment of the proper relationship that ought to exist between the executive staff of these local bodies and their non-official presidents. Inefficiency and slackness are also partly due to want of sufficient governmental supervision, scrutiny and advice. These defects are, however, non-essential and temporary and do not affect the soundness of the main structure. They are sure to be cured by time."

A survey of elementary education was undertaken. The areas which had no school were marked, efforts were directed to opening schools in them and with the means available, satisfactory progress was made. Secondary schools have been encouraged to introduce manual training. University education has been reorganised. It may be claimed, on the whole, that there has been steady advance in education in this Presidency.

Speaking in the House of Lords in July, 1925, Lord Birkenhead, as Secretary of State for India, said thus: " In Madras

the transitional constitution has worked with a great measure of success. Ministers have used their influence to steady public opinion and feeling and have displayed a general moderation and no small measure of statesmanship." We therefore feel justified in stating that this Province has worked dyarchy as successfully as a transitional system of the kind can be worked and that satisfactory political capacity and organising ability have been shown by the Ministers in charge of transferred subjects. Progress in the interest taken by voters in elections, in the political education of voters by their representatives and in the development of the party system in the Council and in the country has been encouragingly steady

4. Working of the Central Government.

In the Central Government, there is at present a total absence of responsibility of the Executive to the Legislature. The Legislature has power to criticize the Government, but without real responsibility to get things done. The powers of certification of Bills possessed by the Governor-General are real and have been exercised on important occasions of a difference of opinion between himself and the Legislative Assembly. The distinction between votable and non-votable items of expenditure introduces a kind of dyarchy, apart from the powers of certification in regard to votable demands. Fortified, as it is, by its real irresponsibility in regard to voted expenditure, the Assembly in discussing the budget and voting on demands is swayed by a feeling of irritation at being unable to control such large items of expenditure as that on defence. The relations of the Executive and the Legislature in the Central Government are such that none who desires constitutional progress can desire for their continuance.

The Government of India have large powers of superintendence, direction and control over the reserved subjects in provinces. When these subjects are transferred, such powers of control will partly be abolished, but will partly be converted into the emergency powers of the Provincial Governor which will naturally be subject to the control of the Government of India. The question whether the Central Government should continue irresponsible as now or should become responsible to the Legislature is relevant in regard to the extent to which responsible Ministers in the provinces would be willing to accept direction from the Central Government. To develop dyarchy into provincial autonomy to be placed under the control of an irresponsible Central Government is to rear a child into a man but without a man's freedom.

If the Central Government be responsible to the Legislature, the orientation of administration in India is likely to be different from what it is. Decentralization—the transference of authority from the Central Government to other parts of the Government—is mainly demanded because it means the transfer of

power from a part of Government which is responsible only to the Secretary of State to parts that are responsible to the people. The undue postponement of the introduction of responsibility in the Central Government may thus give an unhealthy permanent twist to the administrative organism. India would be willing to have a Central Government strong enough to maintain her as a nation, but this willingness is diminished if the Central Government is irresponsible. It is undesirable, therefore, to consider only the reform of Provincial Governments and leave alone that of the Central Government.

Again, responsible Government in the Province, i.e., in provincial subjects and irresponsible Government at the centre, i.e., in central subjects, together constitute a bigger form of dyarchy than the provincial dyarchy which is so universally condemned. Progress can be only towards an increase of responsibility in the governmental scheme of the country and not a decrease thereof. Measures that tend to increase responsibility, whether in the province or at the centre, tend to decrease the operation of dyarchy on the whole and are therefore desirable.

It has to be noted that the division of provincial and central subjects does not depend on a central subject being any the less vital for the well-being of the people of the province than a provincial subject. It depends purely on administrative convenience, i.e., on whether a subject can best be administered by the Government of a province or by the Central Government on a uniform plan for the whole country. If the principle of a democratic government is to be introduced, it is as necessary to introduce it in regard to central subjects as in regard to provincial subjects.

5. Working of Dyarchy in other Provinces.

We have generally followed the political progress of other provinces. It is generally admitted that dyarchy has been worked successfully in a majority of the provinces. The particular success of Madras and the Punjab is mainly due to the fact that the Non-Brahman Party in Madras and the Moslems in the Punjab were willing to work dyarchy. The difference between these two provinces and the rest of India is based not on a difference in political ability, but on a difference in the willingness to work the particular method of dyarchy. These two provinces show that the existence of communal differences are not a bar to political progress in a province. We assert that Madras is to be taken not as an exception, but as a specimen of what any province in India can do if it had an agreed constitution to work. The success of dyarchy in Madras and elsewhere is evidence of the general fitness of the country to work a political constitution which receives the general acceptance of the people.

6. Place of India in the Empire.

The Secretary of State, whether by himself or in Council, has control of the expenditure of the revenues of British India and has general powers of superintendence, direction and control. He controls the services in India. The budget proposals of the Government of India and particularly those affecting taxation must receive his previous approval before introduction in the Legislature. He controls the policy in regard to exchange and currency, the Gold Standard and Paper Currency reserves and all borrowing operations in London. All questions of general Railway policy are under his superintendence. His control over foreign and military affairs is supreme.

India, though an original member of the League of Nations, is still a dependency under the full control of the Secretary of State for India who is the spokesman of the British Parliament. Doubts have been raised in certain quarters whether the policy of His Majesty's Government announced in August, 1917, amounts to a declaration that the status of a dominion in the British Commonwealth is to be India's accepted goal. There is no justification for such doubts because the introduction of democracy necessarily involves the lessening of other than popular control. If India is to have full responsible government, control by the Secretary of State should be minimised in the same manner as in the case of the Dominions.

7. Political Changes Needed.

After a careful consideration of all the facts before us, we recommend the following steps to be taken immediately :—

(1) The grant of provincial autonomy or full responsible government.

(2) The establishment of responsible government in all the civil departments of the Government of India, that is, in all departments except those dealing with Defence, Foreign relations and relations with Indian States.

(3) A declaration by the British Government that full Dominion status in the British Commonwealth of Nations is accepted as the goal of India to be achieved in a reasonably definite period and that the automatic achievement of such status in such time will be brought about by the provision of adequate means for the Indianisation of the army and other forces of defence.

There has been a certain amount of doubt expressed as to what " provincial autonomy " means. As has been pointed out by Sir P. S. Sivaswami Ayyar in his " Indian Constitutional Problems," it means the self-government of the people in the province and therefore implies responsible government. It also means freedom from external control, but this within defined limits, for a provincial government is necessarily

correlated with a Central Government and the relation between the two should imply a measure of authority on the part of the latter over the former. What is now demanded is that responsibility should not be limited to a part of the provincial sphere of government, but should be extended to that sphere in full and that the limits within which the Provincial Government is independent of the Central Government should be definitely laid down. The present division of provincial and central subjects is reasonable and should continue.

In regard to the Central Government we believe that the control of the civil departments by a popularly elected legislature to whom the executive should be responsible is essential if India is to make economic progress. Control over Customs, Railways, Shipping, Banking and Currency and Exchange, if it continues in the hands of an irresponsible Central Government, however justly they may act, will breed irritation and suspicion on the part of the people. These economic departments of the Central Government are of vital importance to the people of India in all the provinces. The appalling poverty of the people, the large amount of unemployment among the educated classes and the comparatively small return India gets from her enormous natural resources, all demand that control over the economic life of India should be transferred to the people of India. In these departments no religious or caste differences can have any effect. Whatever may be the form of administrative or constitutional changes in the country, there can be no substantial progress unless the changes tend to advance the economic welfare of the people which is the primary concern of government. Indeed, if self-government in India is to be real, it should begin with the work of economic reconstruction. Autonomy only in the subjects that are now classed as provincial will be like the husk without the grain which control over economic life can alone provide. Even if it happens that in some of the provinces the subject of Law and Order continues to be reserved, all other subjects being transferred, this will not interfere with our proposal for the immediate transfer of the " civil " departments of the Government of India as the central subject of Defence which is connected with the provincial subject of Law and Order will, under our proposals, be administered for a time under the present arrangements.

It is alleged that India cannot defend herself and therefore cannot be entitled to Dominion Status. The fact is that India is defended largely by Indian soldiers and entirely out of Indian money. It is in spite of the repeated demands of Indians and in order to meet the needs of British Imperial strategy that the army is officered mainly by Englishmen and a large British force is kept in India. As seen from the evidence placed before us and as observed in " The Indian Constitutional Problems," by Sir P. S. Sivaswami Ayyar, the military policy of India has never yet been considered from the viewpoint of the legitimate

needs of India. It is not fair that England should first omit to make India militarily self-sufficient and then use her own omission as an argument against giving her Dominion Status. The unanimous recommendations of the Skeen Committee have been turned down by the Government of India, presumably at the behest of the Secretary of State. The Skeen Committee have shown that it is not the lack of material, but wrong methods that have stood in the way of Indians coming forward in adequate numbers to serve as officers in the army. It is alleged that Indians lack the qualities necessary for leadership in the army. In the Great War, however, Indian non-commissioned officers readily took the place of fallen British officers and the available evidence shows that they acquitted themselves well. Leadership requires opportunities for development and Indians have been practically kept out from such opportunities. Leadership requires not only courage but also intelligence, but Indians with intelligence have hardly been given a place in the army through recruitment being limited to particular classes and to subordinate positions. Indians, whether as officers or as soldiers, have been excluded from the technical and scientific sections of the army. Recruitment to the volunteer corps has been practically restricted to Europeans and Anglo-Indians. It is not the lack of desire or ability on the part of India, but the policy of Britain that is responsible for the fact that India, though it supplies all the money and most of the soldiers, is yet not self-sufficient for purposes of defence.

It seems to us that the contention that Englishmen would not like to serve as officers in the army under Indian superiors is not tenable. We believe that the Englishmen who serve in the Indian Civil Service and other civil services generally are not less proud of their race than those who serve in the army. If the former can serve under Indian direction, there is no reason why the latter should not. It is certainly undesirable that the British officers now serving in India should suddenly depart, leaving her in the lurch. We do not, however, believe that they will leave the task which they have undertaken as it is against the traditions of the services in India to do so. Besides being recruited as officers, Indians should be admitted to the artillery and the other branches of the army from which they are now excluded. As regards the Navy, the self-governing Dominions of the British Commonwealth have not taken up in full the obligation of defending themselves by sea and India may, for the present, remain in the same position. To create a reserve of military strength as well as to give military training to a large number of people, the recommendations of the Auxiliary Forces Committee should be fully carried out. As these measures are put into force, it will be possible gradually to replace the British units of the army in India by Indian units.

If and when control over the army and other forces of defence is transferred to a responsible Government in India, the problem of the Indian States will, we believe, be solved without much difficulty. A powerful democracy in British India is sure to be respected by the Indian States which are scattered over India and suitable relations will automatically spring up.

We have given shape to the national claim for democracy in India in the light of practical considerations. We believe that the recommendations which we have made as to the steps which may be immediately taken are such as will give satisfaction to the people of this province and of India generally.

We shall now proceed to make detailed proposals for carrying out our recommendations.

PROPOSALS.

(a) Provincial.

8. Franchise.

At present the percentage of rural voters to rural population is 3.2 and that of urban voters to urban population is 6. It may be noted that the urban constituencies include only certain large towns and not all the areas which may be called urban. The average number of voters represented by each member of the Legislative Council is 20,000 in rural non-Muhammadan constituencies, 5,000 in rural Muhammadan constituencies, 5,000 in urban non-Muhammadan constituencies, 2,500 in urban Muhammadan constituencies and 4,500 in Indian Christian constituencies.

We are not in favour at present of an extension of the franchise to all adults which will raise the electorate from about 1½ to 23 millions. An electorate based on adult franchise will, under the present economic and educational conditions, lead to the vote being exercised largely by persons lacking in political experience and ability. The administrative difficulties of dealing with such a large electorate are also great.

There are then two alternative methods of dealing with the franchise. The first is to leave the franchise as it is and give the Legislative Council power to alter it according to requirements. The percentage of the population that had votes in England was 3 in 1832, 9 in 1868 and 16 in 1884. Our present franchise need not therefore be unfit to be the basis of a democratic government. Just as the Council had the power to give votes to women and did give them, the Council may well be given the power to extend the franchise as and when it thinks fit. The second alternative is to lower the franchise to half its present level. It has been calculated that such a lowering of the franchise will roughly double the electorate, i.e., raise it to about 6 per cent. of the population. In

this Province, with the family continuing largely as the unit of society, we may consider that 42 million people are divided roughly into 8 million families at the rate of 5 people to a family. Eight million family groups wielding about $2\frac{1}{2}$ million votes will mean a large advance over the present position.

The Committee is in favour of the first alternative with the exception of Mr. Siva Rao who prefers the second. But if the Commission feels that an immediate broadening of the basis of franchise should accompany an increase in the powers of the Legislature, the Committee would recommend the second alternative.

9. Electorates and Constituencies; Strength and Term of Council.

There is a demand for less unwieldy constituencies than is the case at present. At the same time the strength of the Council cannot be unduly increased. We would therefore raise the strength of the Council to about 150 on the existing franchise and 200 if the franchise be lowered.

It is admitted generally that officials need not continue as members of the Council and that nomination of others as members should be reduced to a minimum. We propose therefore that the official *bloc* be abolished, the nomination of experts, whether official or non-official, being permitted for special purposes.

As regards the communal electorates for Muslims and Indian Christians, we are quite aware that such electorates are undesirable on principle. But as practical men we cannot fail to recognize that rightly or wrongly the feeling is practically unanimous among the Muhammadan population that their interests would be served only by the continuance for the present of their special electorates. The feeling among the Indian Christians, while not so unanimous as among the Muslims, is still strong in favour of a similar continuance. We feel that any change in this system of communal electorates can be made only with the consent of the communities concerned. We therefore recommend that the existing communal electorates for Muslims and Indian Christians as also for Europeans and Anglo-Indians be continued for a time on the basis of the proportions obtaining in the present Council. Mr. Khalif-ul-lah and Mr. Thomas hold that voters of their communities should also be included in the general electorate without the right to stand as candidates.

The depressed classes cannot be returned in sufficient numbers by the general non-Muhammadan electorate in which they are now included. We have considered whether special electorates can be formed for these classes. The number of electors belonging to them is only 4 per cent. of the total number of electors on the existing franchise. It may be possible to form some urban constituencies—a possibility which requires investigation. But

considering the seats that can be allotted to the depressed classes, their constituencies are generally bound to be unduly large. With the low level of education and wealth among them it will be very difficult for candidates to get into touch with their constituencies. Representatives of the depressed classes are in favour of an element of election at some stage. We therefore propose that panels of candidates to the extent of twice the number of members required may be elected by recognized associations of the depressed classes in the different districts and that the members to be returned to the Council should be selected by the Governor from the panels. Mr. Siva Raj is of opinion that the number of seats to be allotted to the depressed classes should be on the population basis and that their members should be eligible for places in the Ministry.

We also recommend the continuance of the special representation for commercial interests, the Nagarathars and planters. As regards landholders, the Committee feels that the landholders have weighty interests in the Presidency and that their interests are likely to be in conflict with the interests of their tenants who find a large representation in the Council and therefore recommend that special representation for the landholders should be continued. Mr. Siva Rao is against such special representation.

We are in favour of special representation for the Universities. The majority of us are for election being by the Senates of the three Universities, but Mr. Siva Rao and Mr. Siva Raj are in favour of the election being, as now, by registered graduates.

We feel that no separate representation of agricultural labour is necessary in this Province as a large proportion of such labourers are cultivators and are thereby included in the general electorates. Industrial labour is not at present sufficiently organized to be separately represented.

The reservation of seats for non-Brahmans in Madras has been found to be unnecessary. Their representatives are of opinion that it may be abolished. It may be so done.

As regards the formation of constituencies, we are in favour of single-member constituencies provided they are arranged so as to avoid preponderance of one community in any particular constituency. One non-Muhammadan rural constituency may be provided for about 12,000 to 15,000 voters. The number of voters for other constituencies may be correspondingly determined.

We recommend that the term of the Council may be fixed at five years as the present period of three years is felt to be unduly short.

10. Transfer of Reserved Subjects.

The evidence before us conclusively proves that in this Province the immediate constitutional change to be made is the change to full responsible government. It has, however, been

urged that, in order to meet the special conditions of a few provinces who would like to wait some time before transferring Law and Order, all subjects except Law and Order may be statutorily transferred and that Law and Order may be transferred in a province if the Legislative Council by a stated majority, votes in favour of it and the resolution is sanctioned by the Governor-General. Such a provision will mean that unless the large minorities in a province are satisfied as to the good faith of the majority, the transfer of Law and Order cannot take place. The difficulty as to the transfer of Law and Order, however, does not arise in the case of a majority of the provinces including Madras.

11. Formation of the Executive.

We propose that the executive power in the province be vested in the Governor acting with a Cabinet of seven Ministers of whom one, the Chief Minister, may be selected by the Governor and the rest appointed by him on the recommendation of the Chief Minister. The Ministers will be jointly responsible to the Council and should resign if a no-confidence motion against them is carried by a majority of the total strength of the Council. The Chief Minister will be the President of the Cabinet and will have power to allot portfolios. The Finance Minister will have the present powers of the Finance Member of Government.

Powers of the Governor.

The existing powers of the Governor in regard to legislation may be continued with the exception of power under section 72-E of the Government of India Act which relates to reserved subjects and may be abolished with the abolition of reserved subjects. In regard to financial matters arising in the Legislative Council, the existing powers of the Governor may continue with the exception of power under section 72-D (2) (*a*) of the Act which relates to certification of demands relating to a reserved subject and may be abolished as a result of the abolition of reserved subjects. In regard to administration, we propose that the Governor should have, in relation to the Ministry, the powers which he now has in relation to the Executive Council under section 50 (2) of the Government of India Act. He will have power to make rules for the transaction of business, as now under section 49 (2) of the Act, after consultation with the Ministry. He will dissolve the Legislative Council when he deems reference to the electorate necessary. Where Ministers cannot be appointed or cannot continue, the Governor will have the power to take over administration temporarily pending a re-election of the Council and exercise the powers of the Ministry. He will be the interpreter of the constitution. He will be the agent of the Central Government. In virtue of his powers he will be in a position to safeguard the interests of minorities, services, etc., as he may be required to do in an

Instrument of Instructions issued to him by the Sovereign. In emergencies he will have power to order administrative action to be taken which is necessary for the peace and tranquillity of the province.

It will thus be noted that the Governor will have emergency powers for the maintenance of peace and tranquillity in regard to legislation, finance and administration. The maintenance of peace and tranquillity may, in the last instance, involve the use of the army which is under the control of the Government of India. Under our recommendations, the Governor will have power to take such action as is possible which will obviate the necessity for the use of the army. The personal powers of the Governor as agent of the Central Government are subject to control by the Governor-General in Council and if, in the opinion of the Government of India, the use of the army can be avoided, they can order necessary action to be taken by the Governor. Thus there will be no question of the army being used in a province without the concurrence of the Government of India.

It may be said that these provisions place too heavy a responsibility on the Governor. We believe, however, that the good sense of the Legislative Council and the Ministry will rarely require the emergency powers of the Governor to be used and that the Governor will be wise enough to use them properly or that he will be directed by the Government of India to do so. We are supported in this belief by our experience of the past ten years.

12. Second Chamber.

It has been urged on the one hand that there should be a check provided in the form of a second chamber against hasty legislation by the Legislative Council and for the more effective representation of minorities and of men of ripe experience. As against this it has been said that the provision of a second chamber may lead to cumbrousness in the machinery of Government, that there are no interests in the province which will fail to be represented in the Legislative Council and that the powers of the Governor will provide adequate safeguards for all interests. In the opinion of the Committee, the balance of advantage, however, is in favour of a second chamber, the constitution and functions of the chamber being tentatively similar to those of the Council of State and the strength of the chamber not exceeding fifty. Mr. Siva Rao does not agree with the proposal.

13. Services.

Under the Lee Commission's recommendations, the services in transferred departments of a province should be provincialized. If all provincial subjects are transferred, the question arises whether the All-India services dealing with subjects now reserved should be provincialised. The Madras Government have recommended that they should be and have stated reasons for

their position. The majority of the Committee agrees with this view. Sir A. P. Patro, while he is in accord with the general principle that the machinery with which the provincial administration is to be carried on should be under the control of the Provincial Government, agrees with the view expressed by Diwan Bahadur T. Raghaviah and the reasons given in his evidence and holds that the Indian Civil Service and the Indian Police Service should be treated as All-India Services because in regard to these key services there should be recruitment on an All-India basis. Though they should be under the control of the Provincial Governments, the Central Government should be the ultimate authority for appeal. Sir A. P. Patro feels that if India is to continue as a political unit, there should be a common administrative life flowing through the centre and the provinces. While he is for provincial autonomy in subjects of provincial concern, he does not envisage India as merely a cluster of political units.

For the Provincial services, we consider that there should be a strong and independent Provincial Public Service Commission. We had evidence before us that all communities are not adequately represented in the public services and that steps should be taken by the Government to remove inequalities. There is a Bill pending before the local Legislative Council which will deal with the matter so far as this Presidency is concerned.

14. Linguistic Division of the Province.

There has been agitation for several years for the formation of provinces on a linguistic basis from the Oriya, Andhra and Karnataka areas. We recognize that strong opinions are held on this question among the people concerned. We have heard a deputation from the Oriyas. A Sub-Committee was appointed by the Statutory Commission. We do not know how the matter has been dealt with by that Committee. The Government of India and the Provincial Governments concerned have pointed out difficulties in regard to the finances of the proposed provinces and these have not yet been solved. We are not able to make any recommendation at present as regards the formation of these provinces. The subject requires further investigation.

Agency tracts.

We consider that the present system may continue but with the administration in the hands of the new Provincial Government.

(b) Central.

15. Electorates for the Assembly and the Council of State.

We recommend that the present franchise be retained. Separate electorates may continue for the present for Muslims.

For Indian Christians, election through separate electorates should be substituted for nomination. Nomination for the depressed classes should continue. Provincial Legislatures should elect a proportion of the elected members of the Legislative Assembly and the rest should be elected by the general and communal electorates.

The strength of the Assembly may be fixed at 200 to 250 and its term at five years.

The position as regards the Council of State may continue as at present.

16. Responsibility in the Central Government.

We recommend that the Governor-General be in charge of the Foreign and Political Departments and that the Commander-in-Chief be in charge of Defence. All the other subjects should be in the charge of a Cabinet consisting of Ministers responsible to the Legislature.

The Ganjam District People's Association has made the proposal that the Central Cabinet may consist of officials or experts besides non-official members of the Legislature, but that they should all be responsible to the Legislature. When a Ministry falls, official members revert to their official positions and experts retire with the terms of their contracts duly fulfilled by the Government. The majority of the Committee does not agree with this proposal.

A reasonable amount may be fixed based on the average of the previous few years for the annual expenditure on defence and on the Foreign and Political Departments. For a given period, a sum not exceeding this amount may annually be expended for these purposes without the sanction of the Legislature. The Governor-General will have power to expend an excess amount when necessary by placing a demand before the Legislature and, if it is not passed, certifying it in the interests of peace and tranquillity or of good government.

The present powers of the Assembly to discuss the policy of the Government as regards defence should continue. In regard to normal expenditure, this system will not correspond to that of " Provincial Dyarchy " as the demand for expenditure on defence and on the Foreign and Political Departments is not to be voted on by the Legislature, whereas the expenditure on provincial reserved departments is so voted on. Even if it be considered that there will be dyarchy in virtue of the voting on the excess, if any, over the normal expenditure, we hold that there is no objection to the temporary introduction of dyarchy in the Central Government. Further we have already pointed out that the introduction of even partial responsibility in the Central Government amounts to a diminution of the area of dyarchy in the whole scheme of Government, Central and Provincial combined.

17. Powers of the Governor-General.

The present powers of the Governor-General in regard to Provincial Legislative Councils in respect of legislation will continue. In regard to the Central Legislature, his powers of previous sanction and veto will continue. He will have power to certify Bills essential for the safety and tranquillity of British India. His powers under Section 67 (2) (*a*) of the Government of India Act, whereby he may certify that a Bill or amendment affects the safety and tranquillity of British India and prohibit further steps being taken, will continue. He will have power to make ordinances for maintaining peace which will be in force for six months. In regard to Finance, no proposal for appropriation of revenue will be made except on his recommendation. The Governor-General may order in emergencies expenditure necessary for safety and tranquillity or good Government. We make these proposals for the transitional stage before the attainment of Dominion Status.

18. Defence of India.

We recommend that immediate action be taken on the lines of the Skeen Committee so as to have the Defence forces officered mainly by Indians in the period set for the attainment of Dominion Status for India. More than one Indian Sandhurst should be opened to train Indian officers.

We are strongly of opinion that the recruitment to the army should not be limited to a few provinces, but should be thrown open to all provinces with a quota for each province. The recruits from different provinces need not, however, be kept separate. Recruitment to officerships should be open to all classes.

19. Indian States; Foreign Relations.

Till the control over Defence is transferred to the Legislature, Foreign relations and relations with the Indian States will continue in the charge of the Governor-General. But when the Legislature is in control of Defence, we hold that the present status of the Government of India in regard to the Indian States should be vested in the responsible Government of India. Indian States lying scattered alongside the powerful democracy of British India will not find it in their interests to do otherwise than seek friendly adjustments with British India. We believe that India will in time form a federation in which the Indian States will find their due place though they can be brought in only with their consent.

(c) Relation of Central and Provincial Governments.

20. General.

We hold that residuary powers should vest in the Central Government on the model of the Canadian constitution.

England has, for the first time in Indian History, built up a strong central government and this feature should be continued.

Legislative.

The present division of provincial and central subjects is satisfactory and should be retained.

In regard to previous sanction for legislation, the Madras Government have stated that " the Governor-General has laid it down as a rule of practice that his previous assent will not be withheld except in cases where the proposed Bill trenches on the central sphere or where its discussion would in all reasonable probability lead to a disturbance of the public peace " and proposed that " statutory expression should be given to these limitations." We support this proposal.

Financial.

This question has been dealt with fully by the Madras Government in their memorandum and we are in agreement with their position. This province suffered unduly at the beginning of the operation of the Meston Settlement by the large contributions which had to be paid to the Central Government, but justice, though belated, has now been done with the abolition of provincial contributions. If the Meston Settlement is to be revised, there should be no loss to any province of the revenues which it now enjoys.

Administrative.

The Central Government's powers of superintendence, direction and control over Provincial Governments will be the same in regard to all provincial subjects as they are now in regard to transferred subjects. If the constitution breaks down in a province, the Governor-General in Council will have power to suspend the constitution and carry on the administration through the Governor. The position of the High Courts will continue as at present.

The majority of the Committee is of opinion that there should be separation of executive and judicial functions so as to secure an independent judiciary and improved administration of justice.

(d) Secretary of State for India and Parliament.

21. Relations with Indian Governments.

In relation to Provincial Governments, the powers of the Secretary of State will be those he has at present in regard to transferred provincial subjects except that his powers of safeguarding the administration of central subjects will be limited to the administration of Defence and Foreign relations and

relations with Indian States and that necessary modifications will be made in regard to his powers in dealing with the Civil Services in India.

In relation to the Central Government, the Secretary of State's powers of intervention in regard to transferred central subjects may be modelled on the lines of the Central Government's powers in relation to transferred provincial subjects.

The Secretary of State's Council may be immediately abolished. We look forward to the powers of the Secretary of State for India being reduced to those of the Secretary of State for Dominions.

22. Provision for Further Changes in Constitution.

Under the Government of India Act, the Parliament makes changes in the Indian constitution periodically. The Montagu-Chelmsford Report proposes the examination of the working of the Indian constitution once every twelve years. We propose that the constitution to be now framed should provide for automatic growth in the provinces and at the centre by the decisions of the Provincial and Central Legislatures with suitable checks such as a high majority vote in the Legislature and the power of veto vested in a superior authority. Periodical examination of the political condition of India is irritating and interferes with healthy growth. A constitution left to be worked and grown by India is likely to develop according to the genius and needs of India. Such an elasticity is also in keeping with the genius of British constitutions.

23. Conclusion.

We have sought to envisage the whole relation between England and India. We feel that Montagu and Chelmsford saw truly when they felt ten years ago that a crucial change in that relation was needed. The need has become even more pressing now. If after long years of tutelage under England, India is unable to be at least as self-reliant as other Asiatic States, that tutelage will have been in vain. Faith and courage are needed to let India stand on her own legs and learn, if need be, by mistakes. The longer India is prevented from doing so, the worse will be her condition. From the point of view of England, she has given to India the gifts that are in her power to give. If India is allowed to live her own life, she will feel not only gratitude to England for the past but also affection for her in the future.

To bring about this change of relationship, we have made detailed proposals of the changes immediately needed. We are confident that the British Parliament will appreciate the Indian national sentiment and respond wholeheartedly to the wishes of the people of India.

This Committee wishes to express its appreciation of the valuable services rendered to the Committee by Mr. S. V.

Ramamurty, I.C.S., as Secretary of the Committee who has willingly placed at its disposal his knowledge and experience as district officer which have proved a source of great help to the Committee.

A. P. PATRO, *Chairman.*

S. KUMARASWAMI
S. KRISTNA YACHENDRA
(Kumararaja of Venkatagiri)
P. KHALIFULLAH
DANIEL THOMAS
P. SIVA RAO
N. SIVA RAJ
} Members.

S. V. RAMAMURTY,
Secretary.

2nd June, 1929.

Report

of the

Bombay Committee.

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Preliminary Remarks.

1. We were elected by the Bombay Legislative Council on the 3rd August, 1928, to take part in the Joint Conference with the Indian Statutory Commission and the Indian Central Committee. We sat with the members of the Statutory Commission and the Indian Central Committee at the sittings of the Joint Conference in Poona from the 13th October to the 28th October, 1928, and again in Karachi from the 11th November to the 13th November, 1928, when the evidence, both official and non-official, relating to this Presidency was heard. We have also had the benefit of discussions with the members of the Statutory Commission and the Indian Central Committee. In the letter which the Chairman of the Indian Statutory Commission addressed to His Excellency the Viceroy, dated the 28th March, 1928, he stated that if a Provincial Committee wished to express its own views in a report and furnish its report to the Commission, such report would be given full consideration and would in due course be included in the appendices which would be printed and presented to Parliament. This Presidency was the first to be visited by the Commission and if we had presented our report soon after the sittings of the Joint Conference in our Province terminated on the 13th November, 1928, at Karachi, we would have had to formulate our own views on many of the outstanding questions with which the Commission will have to deal, without knowing how the same problems had been faced in other Presidencies and without having the advantage of knowing the views of the representatives of other Presidencies on the questions. The Chairman of the Statutory Commission in the letter referred to above also gave an assurance that in order to obviate the disadvantages from which a Province which had been visited early in the Commission's itinerary might suffer because its Committee had conferred with the Commission before certain matters which might emerge at the later stages of the Commission's tour had become prominent, he would arrange, before the Commission finally left India, to meet representatives from each of the Provincial Committees if they desired it in order to hear from them their final views or confer with them on outstanding matters. An Auxiliary Committee was also appointed by the Chairman of the Commission to examine and report on one of the most important questions which the Commission had to investigate, the progress of education. The report of this Committee was not before us when the Joint Conference met in our Presidency. The findings of that Committee are of the greatest importance in connection with the question of further political advance, and especially in connection with the important question of the necessity and advisability or otherwise of lowering the franchise. On all these grounds we felt that it would be inadvisable for us to formulate our final views on the

many problems which came up before the Conference till after we had had an opportunity of studying the evidence given in the other provinces, of considering the report of the Auxiliary Committee on Education, and of finally discussing these problems with the Statutory Commission and the Indian Central Committee before their departure from India. While some of the problems arising out of the working of the Reformed constitution are peculiar to each province, there are many—and they are the most important ones—which are common to all provinces alike. Among such we reckon the question of the franchise, communal representation, the protection of minorities and the working of dyarchy in its broader aspects. The difficulties which arise in connection with these questions are more or less the same in all Presidencies and cannot, we feel, be solved on different lines by the different Provinces. Especially is this the case with the important question of communal representation. The basis on which the present arrangement rests was arrived at on a consideration of the position of the two important communities in all the Provinces in India as a whole, and any future solution of the problem must, we feel, take account of similar considerations. It would, therefore, have been impossible for us, even had we desired it, and would certainly have been unfair to our Presidency, if we had formulated our views on these important questions without carefully considering the evidence adduced in connection with them in the other Provinces. We, therefore, decided not to present our views in the form of a report till after the close of the Commission's tour in India. Shortly before the Commission made their final departure from Delhi, the Chairman, as promised, gave us the opportunity of meeting his Commission, the Indian Central Committee and also of hearing the views of the Chairman of the Auxiliary Committee on Education and of Mr. Layton, the financial adviser to the Commission. We have no special remarks to make with regard to the progress of education in this Presidency. The memorandum submitted by the Bombay Government (Chapter 3, Part I) shows that appreciable progress has been made in the spread of education in this Presidency and the Legislative Council has always displayed a very keen interest in all measures for the expansion of primary education. This fact has been admitted by the Auxiliary Committee itself. We desire, however, to take this opportunity of expressing our agreement with the opinion expressed by the Auxiliary Committee on Education that the divorce of the Government of India from education in the provinces has been unfortunate, and cordially support their suggestions that the Government of India should be in a position to give financial assistance to the provinces for purposes of education and should serve as a centre of educational information for the whole of India, and as a means of coordinating the educational experience of different provinces.

ONLY BROAD CONSTITUTIONAL QUESTIONS DISCUSSED.

2. It is not our desire to give a detailed account of the working of the system of government in this Presidency; and in the proposals which we have made later on in our report we have dealt only with the broader constitutional questions which are involved. But we feel it necessary, before we formulate those proposals, to state briefly what progress has been made in self-government in this Presidency during the last few years and how the system of Government introduced in 1919 has worked.

DEVELOPMENT AND WORKING OF LOCAL SELF-GOVERNMENT.

3. Any extension of local self-government in the higher spheres of administration must be based on the experience gained and the success achieved by the people in the working of local self-government in the narrower spheres of municipalities and local boards. This Presidency has, as has been pointed out in the Memorandum presented by the Government of Bombay (Bombay Memorandum, Part 1, page 3), the largest urban population in the whole of India. Nearly 23 per cent. of the population of the Presidency live in towns—a percentage nearly twice as high as that in Madras and the Punjab and considerably more than twice as high as that in the United Provinces and Bengal. As a necessary consequence this Presidency has a larger number of municipalities than any other Province in India. In spite of the fact that the population of the Bombay Presidency is considerably less than half of Madras, Bengal or the United Provinces, Bombay had in 1925-26, 157 municipalities as against 81 in Madras, 116 in Bengal and 85 in the United Provinces. The number of district and taluka local boards is also as high in the Bombay Presidency as in Madras and Bengal. The total number of people enjoying the municipal franchise in the Bombay Presidency in 1926 was 624,000 as against 240,682 in Madras, 166,956 in Bengal (excluding Calcutta) and 298,808 in the United Provinces. We have given the above statistics to show that experience in the exercise of the municipal and local board franchise and in the administration of municipal and local board affairs is probably far more widely spread in this Presidency than in any other province in India.

RAPID PROGRESS MADE IN THE EXTENSION OF LOCAL SELF-GOVERNMENT.

4. During the period of eight years which has elapsed since the introduction of the Reformed system of Government, and to a considerable extent in consequence of the transfer of the control of local self-government to ministers, rapid progress has been made in the extension of local self-government in all directions. Local self-government in villages was practically non-existent in this Presidency prior to 1920.

By the Village Panchayats Act, 1920, local self-government has been extended to villages on a much greater scale by the constitution of village panchayats. The franchise for district and taluka local boards has been considerably extended by the Local Boards Act of 1923 and the electorate for the taluka local boards has been raised to 1,091,464 in 1926. The elective element in district local boards has been raised to a minimum of three-fourths of the total number of members. In municipal areas excluding Bombay City the franchise has been considerably lowered and the electorate increased from 167,000 in 1919 to over 505,000 in 1926. In 1919 only 7 per cent. of the total municipal population exercised the municipal franchise. In 1926 the percentage was 20. In Bombay City the franchise has been lowered to such an extent that the electorate has been increased ten-fold from 12,000 to over 119,000. Women have been granted the franchise and have been made eligible for election both as municipal councillors and as members of district local boards. The presidents and vice-presidents both of municipalities and local boards have everywhere been made elective and far wider powers have been given to municipalities in many directions. The control of primary education has been transferred almost entirely to the hands of municipalities and local boards, and much wider powers of taxation have been given to these bodies.

Consequent Growth of Civic Consciousness.

5. The transfer of wider powers to local bodies, the increase of the elective element in them, and the introduction of elected presidents have, in our opinion, resulted in a considerable growth of civic consciousness both in urban and rural areas. This has been specially evident in the greater interest shown in questions relating to education and public health. In the mofussil municipalities of the Presidency the total expenditure on Education increased from Rs.26 lakhs in 1919-20 to Rs.43 lakhs in 1925-26; that on Public Health rose from Rs.56 lakhs to Rs.113 lakhs. During the same period the expenditure of district local boards on Education increased from Rs.62 lakhs to Rs.97 lakhs. It has been alleged that there is great unwillingness on the part of the local bodies to impose additional taxation for public purposes. We admit that there is a considerable amount of justification for this criticism; but we would point out that a comparison of the figures of income and expenditure of local bodies during the last few years shows that they have not been as remiss in this respect as is sometimes thought. During the seven years from 1919-20 to 1925-26 the total income of mofussil municipalities increased from Rs.149 lakhs to Rs.222 lakhs and their expenditure from Rs.147 lakhs to Rs.239 lakhs. The total income of district local boards increased from Rs.141 lakhs to Rs.204 lakhs, and their expenditure from Rs.119 lakhs to Rs.173

lakhs. The incidence of taxation per head of population increased from Rs.3-9-1 to Rs.5-11-6 in municipal areas and from Re.0-3-5 to Re.0-5-1 in rural areas.

Wider Powers of Self-Government and Extension of Franchise Recommended.

6. The figures which we have quoted above show that the wider powers which have been conferred on local bodies have been, on the whole, well and wisely used, and that the people of this Presidency have had an experience of local self-government which will justify the conferring on them of wider powers of self-government in provincial matters and the further extension of the franchise for the Legislative Council.

Working of the System introduced by the Reforms.

7. The system of government introduced by the Reforms has, in our opinion, worked well in this Presidency. There has from the first been a genuine desire both on the part of Government and of the Legislative Council to work the new system in a spirit of harmony and co-operation. While the Legislative Council has at all times freely criticised the conduct and policy of Government, we maintain that it has on the whole worked in a spirit of co-operation and reasonableness and has never, as a body, attempted to wreck the constitution or to oppose Government merely with the object of creating deadlocks. It is significant that although the Council has on several occasions thrown out or reduced Government demands for grants, there has not been a single occasion during the whole period on which the Governor has resorted to his powers of certification. No Government legislation has had to be certified either. In assessing the work of the Legislative Council during the period of the Reforms, we would draw particular attention to the large amount of constructive legislation—both official and non-official —which has been passed dealing with the important subjects of Education and Local Self-Government, both in municipal and rural areas. But while it may legitimately be said that the new system has been worked successfully, it has not worked in the way in which it was intended to. The absence of any well-organised parties and the presence of the official bloc have been, in our opinion, largely responsible for the fact that the ministers have never relied on their followers for support and have not really been responsible to the elected portion of the Council. To some extent, the absence of well-organised parties has been due to the presence of the official bloc. So long as the ministers felt that they could rely on the official votes and the votes of nominated members, they have not felt any compulsion, and have made no serious efforts, to organise their own parties. Their followers, on the other hand, realising that the ministers could maintain themselves and carry through their

policy independently of them, have not felt the same obligation to support the ministers as they would have felt if the ministers had been entirely dependent on their votes for their existence. Party discipline has, as a consequence, always been very slack. The presence of the official bloc has thus had the effect of destroying, to a considerable extent, the responsibility of ministers to the elected portion of the Council and in producing at times a feeling of irresponsibility among the elected members of the Council. It was the intention of the framers of the constitution that a convention should be established that the official members should abstain from voting on the subjects transferred to the control of ministers, leaving the decision of the question to the non-official members only, and that even in other matters, except on occasions when the Government thought it necessary to require their support, the nominated official members should have freedom of speech and vote. Neither of these conventions has been established, nor has any attempt been made at any time to introduce them. The occasions on which officials have been allowed to speak and vote as they pleased have been very few indeed, and have been restricted to questions of a very minor and non-controversial character. From the first, the officials have voted on all matters relating to transferred subjects and as we have pointed out, the ministers have tended to rely almost entirely on the official votes for the carrying out of their policy. We are not confident that the mere doing away with the official bloc and the nominated members will in itself lead to the growth of well-organised political parties, but we feel strongly that the chances of such parties growing up will be considerably greater if the official bloc is removed. With these preliminary remarks we propose now to deal with some of the broader constitutional questions which are involved and to put forward as briefly as possible our recommendations with regard to them.

Territorial Changes : Separation of Sind.

8. The question of the separation of Sind has played a very important part in the discussions which have been going on during the last year and more, both in the Press and on the platform, in connection with the revision of the constitution. The question is not altogether a purely provincial one affecting this Presidency only. It is intimately involved with the very difficult question of the rights and the adequate representation of the Muhammadan minority, and it has, on this account, figured prominently in discussions outside this Presidency also. We, however, feel strongly that the question must be judged mainly, if not solely, from the point of view of the Presidency itself. We are in full sympathy with the desire of the Muhammadan community and of certain sections of the Hindu and Parsi communities of Sind for the separation of Sind, but consider that at the present stage, at any rate, there cannot be

any justification for such a step being taken because, from the figures before us, it appears that for financial reasons alone the proposal is impracticable. The administrative difficulties which have been pointed out by the Government of Bombay are also real and cannot be ignored. Then again it seems clearly desirable that the Bombay Presidency should first of all secure full provincial autonomy. This, it may be safely considered, is within easy reaching distance of an advanced Presidency like Bombay. But if Sind were a separate province, it could not, at such an early stage, expect an equal privilege, and it would, therefore, inevitably be denied the advantages of any further step forward which Bombay may secure. It must, therefore, in order to secure this advantage, continue to be a part of the Bombay Presidency. As soon as Sind has developed further in material prosperity, and if, as a result of an early and thorough investigation it is found that finances permit, we consider that its claim will demand immediate investigation. We are also not in favour of Sind being separated from Bombay and attached to the Punjab. In our opinion trade reasons are the only ones that can be put forward in support of this proposal, and they are not sufficiently strong to warrant such a step being contemplated. If, as recommended by us above, Sind is not for the present separated from the Presidency, we are of opinion that the special powers which the Commissioner in Sind at present enjoys under the Commissioner in Sind Act, 1868, should be done away with, and he should be placed in the same position as Divisional Commissioners in the rest of the Presidency. These special powers were necessary when, owing to the distance of Sind from Bombay and the inadequacy of communications, Sind could not be efficiently governed from the headquarters of the Presidency, and a wide delegation of powers was necessary. With the changes which have taken place during the last few years, such delegation of powers is no longer necessary.

Separation of the Karnatak.

9. The question of the separation of the Kanarese-speaking areas of this Presidency has not really been brought before the Commission by any witnesses. We do not, therefore, think it necessary to deal with it at any length. We merely express our opinion that the demand is not a very strong one, nor is the proposal practicable.

The Electorate and the Franchise.

10. At present out of a total population of 19,291,719 only 778,321 persons are on the electoral rolls of the Legislative Council. The percentage of voters to the total population is thus only 4.03. When the Franchise Committee worked out their

proposals in 1919, they estimated that on the electoral qualifications fixed by them 3.3 per cent. of the total population would be enfranchised. The present position is, therefore, only a very slight advance on that of 1920. Of the total population of this Presidency, 4,440,248 or about 22.9 per cent. are urban, while 14,851,471 or 77.1 per cent. are rural. Of the total number of 778,321 electors, a little over 240,000 are urban and a little over 528,000 rural. It is evident, therefore, that the urban population is much more largely represented on the electorate in proportion to its strength than the rural. We are of opinion that steps should be taken to widen the electorate, and that it is particularly desirable that the rural population should have a larger representation on the electorate than at present. It is an admitted fact that certain important sections of the population, such as the Depressed Classes and the labourers, are at present not adequately represented on the electorate. The qualification for the franchise in the rural areas is comparatively higher than that in urban areas. A man paying an assessment of Rs.32 or cultivating land assessed at that figure is economically in a better position than a resident of an urban constituency paying an annual rental of Rs.36. We are, therefore, of opinion that the land revenue qualification for the rural constituencies should be reduced to half of what it is at present, and that persons holding in their own rights or as tenants alienated or unalienated land assessed at or of the assessable value of not less than Rs.16 land revenue should be qualified as electors. At present the rural qualification in the Upper Sind Frontier, Panch Mahals and Ratnagiri districts is half of that in the other districts. We would suggest that the same distinction be maintained, and that in these three districts the qualification should be the holding as occupant or tenant of land assessed at or assessable to Rs.8 land revenue. The other qualifications in rural areas may remain the same as at present. We do not propose any change in the urban franchise as we consider that it is sufficiently low at present. While the urban population forms 23 per cent. of the total, it forms 31 per cent. of the electorate. Under our proposals it will form about 21 per cent. We have no actual figures available to show the extent to which the electorate will be enlarged by our proposals. We estimate, however, that the halving of the rural franchise will increase the rural electorate from 528,000 to about 904,131. The total (urban and rural) electorate under our proposals will, therefore, be about 1,144,131. We realise that even under our proposals the electorate will only be about 5.93 per cent. of the total population and about 10.93 per cent. of the total population over 20 years of age. There are, however, two important considerations which, in our opinion, militate against any further lowering of the franchise at the present stage. One is the extent of illiteracy among the voters. We believe that at present roughly only about 58 per cent. of the electorate can read and write. We cannot expect any sudden increase in

literacy within the next few years, and we think it very necessary that the widening of the franchise should proceed gradually so as to keep pace with the increase of literacy in the population. The other reason which makes us hesitate to recommend any very large widening of the electorate is the inadvisability of extending the Council franchise to people who have not in the past had the opportunity of exercising the franchise for any of the subordinate self-governing bodies such as municipalities and district local boards. One of the present qualifications for the district local board franchise is the payment of Rs.32 land revenue. The franchise for the taluka local boards is the payment of Rs.8 land revenue. Even our proposal to reduce the Council franchise to the payment of Rs.16 land revenue goes below the existing district local board franchise. Our limit is, however, higher than that for taluka local boards.

Method of Election.

11. We have given careful consideration to the question whether the method of indirect elections is, in the special circumstances of this country, more suitable than that of direct elections. We find from the Memorandum presented by the Government of Bombay that certain Members of the Government were in favour of introducing the system of indirect elections. We are, however, against the introduction of this system. The method of indirect elections prevailed in this Presidency prior to the introduction of the Reforms of 1919. The authors of the Joint Report were emphatic in their opinion that this system should be swept away. They said that its existence was "one main cause of the unreality that characterises the existing councils because it effectively prevents the representative from feeling that he stands in any genuine relation to the original voter." The considerations which weighed with them still exist, while the arguments which could have been urged 10 years ago in favour of the system of indirect elections have lost some at least of their force. One of the reasons which has been urged in favour of the system of indirect elections is that owing to the illiteracy and inexperience in political matters of the bulk of the Indian electorate, direct elections do not produce as good representatives in the legislatures as a system of indirect elections does. We admit the force of this contention. But in our opinion the 10 years that have passed have seen an appreciable improvement in the educational condition of the people and have given them a better training in political matters than they had ever had before. We attach very great importance to the educative value of the vote and consider that the system of direct elections is one of the best methods of training the people in self-government, and that the doing away with this system will inevitably result in a slackening of the interest which the general body of

the electorate has taken in public affairs. We, therefore, think that the method of direct elections existing at present should be retained.

SIZE AND COMPOSITION OF THE EXISTING LEGISLATIVE COUNCIL.

12. The Legislative Council at present consists of 86 elected members and 28 nominated and ex-officio members. The memoranda—both official and non-official—which have been received by the Commission show clearly that the presence of nominated members in the Council, and especially of nominated official members, has been the main obstacle to the growth of an efficient party system in the Legislative Council. It has prevented the growth of proper relations between the Ministers and their followers in the Council and has, as a result, hindered the development of a sense of responsibility in the Legislative Council.. We are, therefore, of opinion that in the future Council there should be no nominated members, either official or non-official. The nomination of non-officials was resorted to merely in order to provide for the representation of classes or interests which specially required representation and which, owing to their backwardness or for any other reason, were unable to secure representation through the ordinary channel of election. The classes and interests which are at present represented by nomination are (1) the Anglo-Indian community, (2) the Indian Christian community, (3) the Labouring Classes, (4) the Depressed Classes, and (5) the Cotton Trade. Eight seats are allotted to these classes. We propose to provide for the representation of all these classes except the Cotton Trade by election. The Labouring Classes and the Depressed Classes have themselves been clamouring for such representation. We do not think that the Cotton Trade needs special representation. We propose to give additional representation to Commerce, which will compensate for the one nominated seat for the Cotton Trade which we propose to abolish.

PROPOSED SIZE AND COMPOSITION OF THE LEGISLATIVE COUNCIL.

13. In our opinion the future Legislative Council for the Presidency should consist of about 140 members. Eighty-six will be elected by the existing constituencies. In distributing the additional 54 seats, we have taken the following facts into consideration. One of the principal difficulties in the working of representative institutions in India is the existence of large numbers of minorities which are so sharply divided from the rest of the population that they are unable to secure election in ordinary single-member constituencies. The more important of such minorities such as the Muhammadans and the Marathas have been given special representation under the existing constitution—the Muhammadans by separate electorates and the Marathas by reservation of seats. We propose to extend the

system of reservation of seats to the Depressed Classes and to Indian Christians also. But even when these communities have been provided for, there still remain important minorities within the main divisions of Muhammadans and non-Muhammadans which, under the single-member system, have to go unrepresented, even though the minorities may be numerically very large. In such cases plural-member constituencies with the right of cumulative voting give a well-organised minority a considerable amount of protection. The Legislative Council at present contains 30 single-member constituencies. Nine of these, namely, the Deccan Sardars and Inamdars, the Gujarat Sardars and Inamdars, the Jagirdars and Zamindars of Sind, the Bombay University, the Karachi Chamber of Commerce, the Bombay Trades Association, the Bombay Millowners' Association, the Ahmedabad Millowners' Association, and the Indian Merchants' Chamber and Bureau are special constituencies, most of them with very small electorates. We think it very desirable that as many as possible of the remaining 21 single-member constituencies should be converted into plural-member constituencies.

Representation of the Depressed Classes.

14. The Depressed Classes who form about one-thirteenth of the population of the Presidency (1,478,000) are at present represented in the Council by only two nominated members. Owing to their economic and educational backwardness, and the social prejudices which prevail against the Depressed Classes it is scarcely possible for them to get into the Council by election. They are very poorly represented on the electoral rolls. We are informed that according to a rough calculation there are only about 15,600 depressed class voters in the total electorate of 778,000. With the lowering of the rural franchise which we have proposed it is possible that the number may be appreciably increased. But even so it would be too small to enable these classes to secure any of the elective seats without special safeguards. We realise that if the representatives of the Depressed Classes in the Legislative Council are to carry any weight and to be in a position effectively to safeguard their interests, they should be sufficiently numerous to make it worth the while of other parties in the Council to secure their support. This will be especially necessary if the official members on whom the Depressed Classes have to a considerable extent relied for the safeguarding of their interests are removed from the Council. Taking these facts into consideration we suggest that 10 seats should be reserved for the Depressed Classes. We do not propose separate electorates for them. We consider that it will be sufficient if in certain constituencies where the Depressed Classes are well represented both in the population and on the electoral roll, seats are reserved for them. The members elected from the Depressed Classes will be elected by

the general electorate. We suggest that seats may in this way be reserved for the Depressed Classes in the following constituencies :—

Bombay City	2
Karachi City	1
Ahmedabad City	1
Ahmedabad District	1
Surat District	1
Ahmednagar District	1
Poona District	1
Belgaum District	1
Dharwar District	1
	10

It may be found desirable to allot some of the seats to two districts jointly.

Representation of Labour.

15. The representation of Labour on the Legislative Council is at present secured by the nomination of three members. We suggest that these three seats may be converted into four elective seats. There should be no special electorate. Four seats should be reserved for Labour members in the general constituencies—one in Sholapur, one in Ahmedabad and two in Bombay. Only members of registered trade unions should be qualified to be elected to the labour seats.

Separate electorates for Muhammadans.

16. The Muhammadans have at present separate electorates with 31 per cent. of the elective seats. We consider that they should continue to have the same proportion of representation by separate electorates in the future Council. Thus in a Council of 140 elected members they will, therefore, have 43. They have 27 at present; 16 more seats will have to be allotted to them. Two of our members, Sardar Mujumdar and Dr. Ambedkar, are of the opinion that this arrangement can stand only so long as the Lucknow Pact stands as regards all provinces.

Representation of Europeans.

17. The separate European communal electorates which exist at present should be continued.

Representation of Anglo-Indians.

18. The Anglo-Indian community is at present represented by one nominated member. We suggest that they should in future have two elected members. We are unable at present

to make any definite recommendation as to the way in which the constituency should be constituted. A separate communal electorate will have to be created for them.

Representation of Indian Christians.

19. The Indian Christian community is at present represented by one nominated member. The total population of Indian Christians in the Bombay Presidency is only about 220,000 of whom about 50,000 are in Bombay, about 21,000 in the Bombay suburban district, about 26,000 in the Thana district, about 26,000 in the Kaira district, about 22,000 in the Ahmednagar district and smaller numbers elsewhere. We suggest that one seat may be reserved for the Indian Christian community in Bombay City.

Reservation of seats for Marathas.

20. The seven seats which are at present reserved for the Marathas and allied castes should, in our opinion, continue to be reserved. We do not suggest any extension of such reservation. We think, however, that the reasons which necessitated the reservation of the existing seven seats still continue, and that there is a danger that the Marathas may not be able to secure representation adequate to their numbers and influence if the safeguard of reservation is not maintained.

Representation of Landholders and Inamdars.

21. The enlarged Council which we have proposed will have much wider powers than the existing Council. It will also be deprived of the expert knowledge and advice of the official nominated members. It appears to us, therefore, to be very desirable that increased representation should be given to the more stable elements of the population. We propose, therefore, to increase the representation given at present to the land-owning and commercial classes. The Inamdars and landholders of the Presidency and Sind have at present three seats allotted to them—one for the Deccan Sardars and Inamdars, one for the Gujarat Sardars and Inamdars, and one for the Sind Jagirdars and Zamindars. The Sardars and Inamdars of the Southern Division have at present no separate seat allotted to them, and this has always been a matter of grievance with them. The Deccan Sardars and Inamdars constituency which includes the Southern Division has at present 517 voters of whom 312 are from the Central Division and 205 from the Southern Division. The Gujarat Sardars and Inamdars constituency has 171 voters. The Sind Jagirdars and Zamindars constituency has 1,059 voters. We suggest that two additional seats should be given to the landholders constituencies, one to a newly constituted con-

stituency for the Southern Division and one to the Jagirdars of Sind, the existing Sind seat being allotted to the Sind Zamindars only.

Representation of Commerce.

22. We suggest the giving of four more seats to the Commerce constituencies, one being given to the Indian Merchants' Chamber, Bombay (in addition to the existing one seat), one to the Indian Merchants' Chamber, Karachi (which is at present not represented), one to the Karachi Chamber of Commerce in addition to the existing one seat, and one to the Bombay Chamber of Commerce in addition to the existing two seats.

Representation of the Hindus of Sind.

23. The Hindus of Sind are, we think, very inadequately represented in the Legislative Council. For a population of 873,354 and a voting strength of 67,086 they have only three seats. The two rural constituencies of Eastern and Western Sind have each only one seat. We are of opinion that three extra seats should be given to the Sind Hindus, the total number of seats being distributed as follows :—

	Seats.
Karachi City and District	2
Sukkur and Upper Sind Frontier Districts ...	1
Hyderabad District	1
Larkana District	1
Nawabshah and Thar Parkar Districts	1

If, as proposed, two new districts of Dadu and Guni are created in Sind, the seat allotted to the Larkana District may be allotted to the Larkana and Dadu Districts jointly, and the seat allotted to the Hyderabad District may be allotted to the Hyderabad and Guni Districts jointly.

Distribution of Seats.

24. We have shown in Schedule " A " attached to this report the detailed distribution of the 140 seats which we have proposed. In the distribution of seats we have provided 43 seats for Muhammadans so as to maintain the existing ratio of Muhammadan representation.

Basis of Representation.

25. We have tried as far as possible to allot one seat for every 10,000 voters or fraction of 10,000 over half. Owing to the fact that the Muhammadans have been given representation in excess of their population, it has not been possible to apply this principle to them. The different constituencies vary so greatly in economic and political importance, that we have not found it possible to adopt any uniform ratio of population to seats.

The Provincial Executive.

26. The experience which has been gained of the working of the transferred departments during the last eight years shows that the transfer of departments to the charge of ministers responsible to the Legislative Council has worked successfully in spite of the inevitable restrictions imposed by the system of dyarchy. We think the time is now ripe for a further transfer of responsibility, and recommend that all subjects with the exception of Law and Order should now be transferred to the control of ministers. With regard to Law and Order, we think that for some years this subject should continue to remain reserved. The existence of serious communal disorders between the two major communities in the Presidency and elsewhere in India makes the immediate transfer of this subject to the control of a newly elected Council difficult and dangerous. Such transfer may have a very serious and prejudicial effect on the efficiency and impartiality of the police and of the magistracy. We hope that in a few years' time the feelings between the two communities will have improved, and that the further experience which the Council will have gained in the administration of important subjects like Land Revenue and Irrigation will bring about an increased sense of responsibility both among the people and among their representatives in the Council. We would recommend that a short period of five years should be provided during which the new entirely elective Councils should have an opportunity of settling down to their work, and that after that period it should be left to the decision of the Legislative Council with the concurrence of the Upper House to decide that the subject should be transferred. This will provide an automatic advance to a condition of complete provincial autonomy, with a unitary government consisting entirely of ministers chosen from amongst the members of the Legislative Council, jointly responsible, with a Chief Minister at the head. The Members of the Government should be chosen by the Governor, but in order to introduce a system of joint responsibility, the names of the other Ministers should be submitted by the Chief Minister for the approval of the Governor. Until Law and Order is transferred, however, dyarchy will continue in the provincial Government with one reserved subject, viz., Law and Order, in charge of a Member of Council, and all other subjects administered by Ministers. The Member in charge of Law and Order may be either an official or a non-official. As all subjects including Finance will be transferred with the exception of Law and Order, it will, we think, be necessary to provide a separate purse for Law and Order.

Powers and Working of the Proposed Executive.

27. If the recommendations made by us above are accepted, there will be only one Member of Council in charge of the

reserved subject of Law and Order for the first five years and after that, if the Council, subject to the provision made above, so decides, Dyarchy will come to an end and there will be a unitary Government consisting of a Chief Minister and six other Ministers chosen by the Governor on the advice of the Chief Minister. The Governor should have the power to dismiss or accept the resignation of the Cabinet. The Government of this Presidency at present consists of four Members of Council and three Ministers. We are not in favour of reducing the number of Members of the Government. The increasing powers of the Legislative Council, and longer and more frequent sessions, will inevitably increase the work of the Ministers and much of their time and energy will and should, in our opinion, be spent on the purely political side of their work, the carrying on of propaganda in favour of their policy, and the maintaining of constant touch with their constituencies and with the country as a whole. With a unitary system of Government formed on the principle of joint responsibility there will be less chances of conflict of views on fundamental points between the Ministers. When the Ministry is chosen entirely from the Council and is supported by a majority of its members, the powers of overriding the advice of his Ministers given to the Governor under the existing section 52 should no longer be continued. The exercise of such powers will inevitably bring about serious conflicts between the Governor and the Legislature. If the Governor disagrees with the action of his Ministers, he will have the power to ask them to resign and to form a new Ministry. If the new Ministry follows the same policy and is supported by the Legislative Council, it will be open to the Governor to dissolve the Council. If even the new Council takes the same view as its predecessor the Governor must then abide by its decision. We consider it necessary that provision should be made for the temporary administration of the province in the case of a breakdown. Under the present constitution section 52 (3) of the Government of India Act and the Transferred Subjects (Temporary Administration) Rules enable the Governor to take over the administration of a transferred subject temporarily. Similar powers should be vested in him in the future constitution. The meetings of the Cabinet should be presided over by the Governor as at present. We agree with the recommendation made by the Government of Bombay that the salaries of the Ministers should be fixed by statute.

Second Chamber.

28. With the enlargement of the Councils which we have proposed and the transfer to their control of practically the whole administration, and with the removal of the official element from the Council, we think it very necessary that certain safeguards should be provided against the passing of hasty and ill-considered legislation or of legislation which may discriminate unfairly

against particular classes or communities. We think the best safeguard would be the creation of an Upper House elected on a different franchise and for a longer period than the Lower House. The Upper House should, in our opinion, consist mainly of representatives of the larger landed and commercial interests. Its franchise should be the same as that for the present Council of State. The membership should be restricted to about 30, two-thirds of whom should be elected and one-third nominated by Government. A franchise similar to that for the present Council of State will, we believe, secure in the Upper House a fair number of representatives of the land-owning and commercial classes. It is not, however, our intention that after the creation of an Upper House which would consist mainly of representatives of the classes mentioned above, the special representation given to these classes in the existing Legislative Council should be done away with. To do so would be to put these classes in a worse position than they are now, whereas it is our intention that every effort should be made to bring into the legislatures a larger number of men from these classes. In the proposals, which we have made in paragraph 21, therefore, we have proposed not merely the retention of the existing representation of these classes in the Legislative Council but a slight extension of it. We have suggested that the Upper House should consist of about 30 members of whom 10 should be nominated. Of these, not more than half may be officials; the rest should be non-officials. Of the 20 seats to be filled by election, six (that is, 31 per cent.) should be given to the Muhammadans, 12 to the non-Muhammadans and two to the Europeans. The 12 non-Muhammadan seats may be distributed as follows :—

Central Division	3
Northern Division	3
Southern Division	3
Sind	1
Bombay City	2
	12

The six Muhammadan seats may be distributed so as to give three seats to Sind and three to the Presidency. Of the Presidency seats, one should go to Bombay City and two to the rest of the Presidency.

Term of Office of the Legislative Council and Upper Chamber.

29. We think that the term of office of the present Legislative Council is not long enough and would suggest that it should be increased to five years. The period for the Upper House may be fixed at six years, one-third of the members retiring by rotation every two years. The Upper House should be given the same

powers in matters of legislation as the Lower House, and the assent of both Houses should be necessary for the passing of any legislation. Bills (except money bills) may be introduced in either House but should not come into operation until they have received the assent of both Houses. Money bills should be introduced in the Lower House only. As regards the Budget, the Upper House should have the power to criticise it but not to reduce or refuse demands for grants. In the case of any difference of opinion between the two Houses, the question should be decided by a majority vote at a joint sitting of both Houses.

Public Services Commission.

30. We recommend the creation of a provincial Public Services Commission which should deal with recruitment to all provincial services and should hear appeals from members of such services with regard to orders of dismissal, removal or reduction. The rules governing such Commission should be subject to the approval of the Governor, and should provide for adequately safeguarding the interests of the backward classes.

Special and Emergency Powers of the Governor.

31. We do not think that there is any necessity for the continuance of the special powers of vetoing and certifying which are at present vested in the Governor. The safeguards which we have provided, and especially the creation of the Second Chamber, to a considerable extent render the exercise of such powers unnecessary. We think, however, that certain emergency powers must still be retained with the Governor. In connection with the budget, we would continue to vest in him the power which he has at present in cases of emergency to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of the province. In connection with legislation he should have the power which he has at present to certify that any bill which has been introduced or is proposed to be introduced or any amendment to a bill which is moved or is proposed to be moved affects the safety or tranquillity of his province or of any part of it or of another province, and to direct that no further proceedings should be taken by the Council in relation to such bill or amendment. The provisions of the existing section 80-C of the Government of India Act should be continued. On the Governor should also be placed the responsibility of safeguarding the rights of the existing members of the All-India Services and all members of such services should have the right of direct appeal to him.

Separation of Judicial and Executive Functions.

32. We are in favour of a gradual separation of the judicial and executive functions. The magisterial powers of the Collector and District Magistrate should not, in our opinion, be interfered with, but we consider that the combination of judicial and

executive powers in subordinate magistrates such as Sub-Divisional Magistrates, mamlatdars, mukhtiarkars, aval karkuns and munshis is open to serious objection and should be gradually abolished as and when the financial condition of the Presidency improves.

Powers of the Courts to Intervene in Respect of Proceedings Pending in Council.

33. We agree with the recommendation made by the Government of Bombay in paragraph 11 of Chapter X of their Memorandum (Part II) that express provision should be made by legislation barring courts from premature interference with the Presidents of the Legislative Councils or with proceedings pending in the Councils.

Privileges of Members of the Legislatures.

34. We agree with the recommendation made by the Government of Bombay in paragraph 11 of Chapter X of their Memorandum that in addition to the privilege of freedom of speech members of the legislature should be exempted from sitting as jurors or assessors in criminal trials and should be granted immunity from arrest and imprisonment for civil causes during the sessions of the legislature and for periods of a week immediately preceding and following actual meetings. We further recommend that members of the Central and Provincial Legislatures should be assigned definite places in the Warrant of Precedence, as was the case formerly.

Protection of Minorities.

35. We consider that the future constitution of India should contain provisions giving the minorities adequate protection as regards the free exercise of their religion and the use of their language.

Financial Arrangements.

36. As regards financial arrangements, we do not propose to make any recommendations in detail. It will be seen from the memoranda submitted by the Government of Bombay and the Bombay Chamber of Commerce that the Government of Bombay, the Legislative Council, non-official bodies and the public of Bombay are all agreed that the Meston Settlement has worked very prejudicially as regards this Presidency and requires to be revised at the earliest possible opportunity. Protests have been repeatedly made that the Settlement is unfair, inequitable and based on premises which could be proved to be erroneous and has led to serious financial difficulties. The figures adopted by the Meston Committee as the basis of their calculations were misleading and the anticipations of the Committee that there

was a great capacity for future growth in the revenues of this Province have been entirely falsified by events. The Settlement has had the effect of seriously hindering the growth of the nation-building and other departments and bringing in a period of stagnation and in some cases of actual retrogression in the administration of the Province. The years following the introduction of the Reforms have been years of great financial stringency with the result that very few schemes of improvement or expansion could be undertaken or carried through by the Government or the Legislative Council. While the Reforms necessarily involved increased expenditure for their successful working, there has been since their inauguration a general and persistent demand for retrenchment forced both upon Government and the Legislative Council by the necessities of the situation resulting from the Meston Settlement. The Presidency has suffered serious financial losses under the Settlement, while its most important sources of revenue (especially Income Tax) have been taken away from the Provincial field. We are, therefore, of opinion that a case has been fully established for a revision of the Meston Settlement, and suggest generally that it should be revised on the lines recommended by the Government of Bombay in Chapter X of Part II of the Memorandum submitted by them.

Constitution of the Central Government.

37. In the preceding paragraphs of this report we have dealt with the changes which we consider necessary in the constitution and powers of the Provincial Government and the Provincial Legislature. We have recommended the grant of wider powers and the ultimate transfer of all subjects. In making these recommendations we have assumed the existence of a strong Central Government in India capable of exercising a unifying influence over the country as a whole both by legislation and by administrative action, and of interfering effectively in the administration of any Provincial Government in case of a breakdown or for any other sufficient reason. We consider that in the present condition of India a strong Central Government is absolutely essential if the various provinces of India, which differ so much from each other in race, in language, and to some extent in religion, are to be prevented from drifting apart. In our view the Central Government in India should always be of the unitary, not of the federal type. The present constitution of the Government of India has not been found altogether satisfactory. The existence of an irremovable executive, neither chosen from nor in the legal sense responsible to the Legislature, faced by a Legislature in which the Government is in a permanent minority, has resulted in the weakening of the executive and has produced a sense of irresponsibility in the Legislature. The Government of India have frequently been defeated in their attempts to introduce legislation which

they considered essential, and in many other cases where they have succeeded, their success has been due to fortuitous circumstances. We think it essential that the position of the Government of India as against the central Legislature should be strengthened. This could be done by leaving the constitution of the Central Government as it is, that is, composed of Members of Council not responsible to, nor liable to be turned out by, a vote of the Legislature, and by increasing the voting power of the Government in the Legislative Assembly by providing for a larger number of nominated members. Another method would be to introduce a system of dyarchy, transferring the administration of certain subjects such as Education, Public Health, and Agriculture, to the control of Ministers chosen from the majority party or parties in the Legislative Assembly. We are inclined to favour the latter alternative and think that the introduction of a measure of dyarchy in the Central Government will result in a sense of greater responsibility in the members of the Legislature and greater co-operation between the Legislature and the Executive, than has existed in the past. The power of nominating members to the Legislative Assembly and the Council of State will have to be continued, while we think that some increase might be given to Muslim representation in the central Legislature.

Powers of control of the Central Government.

38. If the recommendations which we have made above for the ultimate transfer of all subjects in the provinces to the control of Ministers are accepted, there will automatically be a considerable diminution in the power of control exerciseable by the Central Government over the provincial Government. The control of the Central Government over transferred subjects is at present governed by the provisions of rule 49 of the Devolution Rules. We would maintain these provisions and would further provide that when the Governor of a Province differs from his Cabinet in connection with any matter wherewith he is specially charged by his Instrument of Instructions or which affects any central subject or the interest of another Province, he should have the power of reserving the question for the consideration of the Governor-General and the decision of the Governor-General in such matters should be considered as final. In view of our recommendation that the subject of Law and Order should after the first five years be capable of transfer if the Legislative Council with the concurrence of the Upper House so decides we would further suggest that power should be given to the Governor-General to exercise an effective control over matters dealing with internal security and the administration of Law and Order. Such powers shall include authority to insist on expenditure which the Governor-General considers necessary for the efficient maintenance of these departments.

Allocation of subjects between Central and Provincial Governments.

39. The present allocation of subjects between the central and provincial Governments made by Schedule I to the Devolution Rules has, in our opinion, worked on the whole satisfactorily. The powers of control which the Governor-General at present exercises over legislation by provincial Governments under the provisions of Sections 80-A and 81 of the Act are necessary if uniformity of legislation is to be maintained throughout India in important matters but some relaxation of the provisions as regards previous sanction is, in our opinion, desirable as these provisions have at times resulted in considerable delay to provincial legislation, especially to legislation proposed by non-official members. We recommend that the general powers of control which the Governor-General has at present should be left unimpaired. We have already in paragraph 36 dealt with the changes which we consider absolutely essential in the financial relations between the central and provincial Governments.

The Central Legislature.

40. We consider that the size of the Legislative Assembly should be considerably enlarged and that the representation of the various Provinces on it should be based on some uniform ratio of seats to either population, or voting strength, or any other basis. The method of election should be direct as at present.

(Signed) S. N. Bhutto, *Chairman.*
Abdul Latif Haji Hajrat Khan.
E. Miller.
Syed Miran Muhammad Shah.*
D. R. Patil.*
G. N. Mujumdar.*

Bombay.
7th May, 1929.

* Subject to a minute of dissent.

SCHEDULE A.

Serial. No.	Name of Constituency.	Class of Constituency.	Population.		Voting Strength.		Existing No. of seats.		Redistribution of seats so as to increase strength of Council to 140.		Reserved seats.
			Muhammadan.	Non-Muhammadan.	Muhammadan.	Non-Muhammadan.	Muhammadan.	Non-Muhammadan.			
1	Bombay City North ...	Non-Muhammadan.	—	976,503	—	42,774	—	3		6	(1) Maratha. (1) Depressed Classes. (1) Indian Christians. (1) Labour.
2	Do. South ...	Do. ...	—		—	55,163	—	3		6	(1) Depressed Classes. (1) Labour.
3	Karachi City	Do. ...	—	116,447*	—	18,057	—	1		2	(1) Depressed Classes.
4	Ahmedabad City...	Do. ...	53,828	220,179*	7,695	35,668	—	1		4	(1) Do. (1) Labour.
5	Surat City...	Do. ...	24,564	92,870*	1,636	7,583	—	1		2	(1) Depressed Classes.
6	Sholapur City	Do. ...	20,962	92,969*	3,290	12,026	—	1		3	(1) Labour.
7	Poona City	Do. ...	22,113	176,430	2,150	17,218	—	1		2	
8	Ahmedabad District ...	Do. ...	45,467	571,097	1,715	21,514	—	2		3	(1) Depressed Classes.
9	Broach District	Do. ...	69,988	237,731	7,697	18,434	—	1		2	
10	Kaira District	Do. ...	65,215	645,709	2,788	27,792	—	2		3	
11	Panch Mahals District ...	Do. ...	26,685	348,156	2,967	11,527	—	1		2	
12	Surat District	Do. ...	31,686†	525,186	2,025	18,987	—	2		2	(1) Depressed Classes.
13	Thana and Bombay Suburban Districts.	Do. ...	46,336	865,800	4,876	30,070	—	2		2	(1) Maratha.
14	Ahmednagar District ...	Do. ...	37,736	692,752	1,100	17,204	—	2		3	(1) Maratha, (1) Depressed Classes.
15	East Khandesh District...	Do. ...	107,509	968,094	2,175	32,718	—	3		3	
16	Nasik District	Do. ...	46,458	782,645	2,686	21,070	—	2		2	(1) Maratha.
17	Poona District	Do. ...	24,404†	780,928	555	12,217	—	2		3	(1) Maratha, (1) Depressed Classes.
18	Satara District	Do. ...	35,989	989,769	792	21,533	—	3		3	
19	Belgaum District... ...	Do. ...	80,292	872,053	1,398	23,152	—	2		3	(1) Depressed Classes.
20	Bijapur District	Do. ...	96,125	700,742	1,380	16,090	—	1		2	
21	Dharwar District... ...	Do. ...	143,037	893,742	2,351	35,236	—	2		3	(1) Depressed Classes.
22	Kanara District	Do. ...	26,402	375,297	586	10,052	—	1		2	
23	Ratnagiri District ...	Do. ...	80,991	1,073,241	2,867	21,594	—	2		2	(1) Maratha.
24	Eastern Sind	Do. ...	—	442,795	—	23,789	—	1	Karachi District 1 Sukkur and U.S. F.D. 1	5	
25	Western Sind	Do. ...	—	314,112	—	25,240	—	1	Hyderabad and Guni Districts. 1 Dadu and Larkana Districts. 1 Nawabshah and Thar and Parkar Districts. 1		
26	Sholapur District... ...	Do. ...	37,740†	590,205	590	12,825	—	1		2	(1) Maratha.*

* These include Europeans as separate figures of European population are not given in Census Report for Cities.

† Population of the City constituencies is excluded.

SCHEDULE A.—*continued.*

Serial No.	Name of Constituency.	Class of Constituency.	Population.		Voting Strength.		Existing No. of seats.		Redistribution of seats so as to increase strength of Council to 140.	Reserved seats.
			Muhammadan.	Non-Muhammadan.	Muhammadan.	Non-Muhammadan.	Muhammadan.	Non-Muhammadan.		
27	Kolaba District	Non-Muhammadan.	28,354	534,359	1,278	14,328	—	1	2	(1) Maratha.*
28	West Khandesh District	Do. ...	32,509	609,322	1,600	19,392	—	1	2	(1) Maratha.*
29	Bombay City	Muhammadan	184,685	—	21,766	—	2	—	4	
30	Karachi City	Do. ...	100,436	—	8,330	—	1	—	2	
31	Ahmedabad and Surat Cities.	Do. ...	53,828	313,049	7,695	43,251	1	—	Ahmedabad City 1 Surat City ... 1 } 2	
			24,564		1,636					
			78,392		9,331					
32	Poona and Sholapur Cities.	Do. ...	22,113	269,399	2,150	29,244	1	—	2	
			20,962		3,290					
			43,075		5,440					
33	Northern Division ...	Do. ...	285,377	3,193,752	22,068	—	3	—	5	
34	Central Division	Do. ...	322,345	5,693,694	9,498	—	3	—	4	
35	Southern Division ...	Do. ...	455,201	4,450,508	9,860	122,214	3	—	4	
36	Hyderabad District ...	Do. ...	411,776	160,894	11,603	13,369	2	—	Hyderabad ... 2 Guni ... ... 2 } 4	
37	Karachi District	Do. ...	285,715†	36,241	4,030	1,814	2	—	2	
38	Larkana District... ...	Do. ...	499,553	98,395	10,601	6,329	3	—	Dadu ... ... 2 Larkana ... 3 } 5	
39	Sukkur District	Do. ...	358,396	151,810	9,412	15,381	2	—	3	
40	Thar and Parkar District	Do. ...	212,735	183,576	4,475	2,834	2	—	2	
41	Nawabshah District ...	Do. ...	321,135	97,523	6,517	5,002	1	—	2	
42	Upper Sind Frontier ...	Do. ...	216,277	24,337	3,973	1,716	1	—	2	
43	Bombay City European...	European ...	—	—	—	—	1	—	1	
44	Presidency European ...	Do. ...	—	—	—	—	1	—	1	
45	Anglo-Indian Community	Anglo-Indian	—	—	—	—	—	—	2	
46	Deccan Sardars and Inamdars.	Landholders	—	—	—	—	1	—	Sardars of the Central Division. 1 Sardars of the Southern Division. 1 Gujarat Sardars and Inamdars. 1 Jagirdars of Sind 1 Zamindars of Sind 1 } 5	
47	Gujarat Sardars and Inamdars.	Do. ...	—	—	—	—	1	—		
48	Jagirdars and Zamindars (Sind).	Do. ...	—	—	—	—	1	—		

49	Bombay University ...	University	—	—	—	—	1	—		1
50	Bombay Chamber of Commerce.	Commerce and Industry.	—	—	—	—	2	—		3
51	Karachi Chamber of Commerce.	Do. ...	—	—	—	—	1	—		2
52	Bombay Trades Association.	Do. ..	—	—	—	—	1	—		1
53	Bombay Millowners' Association.	Do. ...	—	—	—	—	1	—		1
54	Ahmedabad Millowners' Association.	Do. ...	—	—	—	—	1	—		1
55	Indian Merchants' Chamber and Bureau.	Do. ...	—	—	—	—	1	—		2
56	Karachi Indian Merchants' Chamber.	Do. ...	—	—	—	—	—	—		1
									Total ...	140

* Reserved in Rotation.

† Population of the City constituencies is excluded.

APPENDIX A.

Minute of Dissent by Syed Miran Muhammad Shah.

I very much regret to dissent from my colleagues in the question of separation of Sind from the Presidency of Bombay. I should like to make it clear at the very ouset of my minute of dissent that I have been dissenting from the view of my friends at every meeting of the Committee at which this question has been discussed and decided although no such mention has been made in the provisional reports submitted by the Committee for the information of the Commission, before this. It will therefore be clear that this is not an after-thought on my part but a considerate opinion held by me since the conclusion of the evidence in connection with this question.

There have been two opinions on this question besides mine.

One is the view of the majority of my colleagues who have expressed their sympathy with the desire of the majority of the people of Sind demanding separation, while the other is expressed by my learned friend Dr. Ambedkar who has seriously criticised the majority for their mere expression of sympathy towards the people of Sind. I will first try to meet the arguments advanced by the majority against separation, and then reply those advanced by Dr. Ambedkar if need be.

The majority has, it seems, realised the genuineness of the demand for separation and therefore have expressed thir sympathy with the desires of the majority of Sindhis consisting of the entire Muslim population (73 per cent.) and certain sections of Parsi and Hindu Communities. It is quite clear that they do not consider it a demand based on communal grounds only, thinking that the Parsi and Hindu communities could not have joined Mussulmans in the question if it had been so. They have based their argument against separation on three main grounds. Firstly that Sind is not self-supporting from financial point of view;

Secondly that there are administrative difficulties involved in the question;

Thirdly that separated Sind will be deprived of the advantage of Provincial Autonomy which is to be conferred upon Bombay in the next instalment of Reforms.

As against the first, I regret to say that no serious effort has been made to investigate the financial position of Sind although such investigation was promised by the Chairman of the Statutory Commission to the deputation of Sind Mahomedan Association in Karachi. The Provincial Committee has repeated the question made by the deputation of the Sind Mahomedan Association at Karachi and requested the Chairman of the Statutory Commission to ask Mr. Layton, the financial expert, to investigate this question and inform the Committee of the result. Our Committee has not as yet received any information as regards the result of the inquiry by the financial expert and therefore, it seems, they have based their decision on the figures supplied by the Government of Bombay. As arbitrators entrusted with the settlement of this important question the Committee ought to have insisted on an immediate inquiry by the financial expert Mr. Layton and should have expressed their opinion and based their decision on the results arrived at by the disinterested expert; but to base the decision only on the materials supplied by the Government of Bombay, who are in the position of defendants as against the people of Sind, is like delivering judgment on the uncorroborated statement of defendants only. In my opinion the indifference is inexcusable and it vitiates *ab-initio* the decision of the Committee so far as their first argument is concerned.

I will now try to discuss the question as to how far the figures supplied to us can help us to arrive at a definite conclusion as regards the exact financial position of Sind. The more do we scrutinise the statements of figures supplied to us from time to time by the Finance

Department the more suspicious do we get, as regards the reliability of these figures. We have so far received figures from three sources, namely, the Secretary, Finance Department, Professor Chablani, the spokesman of the Sind Hindu Association, and Mr. M. S. Khuhro, the spokesman of the Sind Mahomedan Association. Professor Chablani's source of information of figures is Government records as admitted by the Finance Secretary for reasons best known to the latter; while the knowledge of Mr. Khuhro is based on the information supplied by the Finance Department in a demi-official No. 6094-A addressed to Mr. Noor Mahomed, M.L.C, in response to his letter. This letter has been mentioned by Mr. Khuhro in his evidence before the Joint Comference at Karachi. The Chairman of the Statutory Commission had asked Mr. Khuhro to send on that letter to him but he could not do so, hence I am attaching a copy of it with my minute for the purpose of reference. I do not attempt to go into details of each item of income and expenditure as supplied to us by the above mentioned interested agencies, but I want to show the unreliability and unsuitability of these figures to form the basis of our decision on this most contentious and controversial question. The tables of figures supplied to us contain items of income and expenditure from the year 1921-22 to the year 1927-28. If we compare the table supplied by the Secretary, Finance Department, with that prepared by the Accountant-General we see that the various items of income and expenditure do not tally. For instance, if we look at the items of income for the year 1921-22, we shall see that the Finance Secretary puts it at Rs.210.5; while the Accountant General calculates it at Rs.185·4 making a difference of about 25 lacs. Then again we look at the items of expenditure from the year 1921-22 to 1924-25, at both tables we shall see the patent discrepancies between the two. For instance, the Secretary, Finance Department, shows the figure of expenditure for the year 1921-22 to be 250 lacs of rupees while the Accountant-General shows it to be Rs.222·8 lacs making a difference of about 27 lacs, similarly all the figures of expenditure supplied by both the above mentioned Financial Authorities do not tally with one another. Moreover all the items of expenditure contain capital expenditure and interest thereon. This method of calculation also cannot be said to be fair and just because capital expenditure has nothing to do with annual recurring expenditure as Capital Accounts are quite distinct from the ordinary expenditure from Revenue and is payable from the works on which the money is to be spent. Mr. Jamshed N. R. Mehta (a Parsee gentleman of great national renown and President, Karachi Municipality) has worked out figures of capital expenditure from the year 1921-22 to 1924-25 and they are as under :—

Capital expenditure in Sind in 1921-22=46 lacs.
Capital expenditure in Sind in 1922-23=47 lacs.
Capital expenditure in Sind in 1923-24=69 lacs.
Capital expenditure in Sind in 1924-25=185 lacs.

Now if we deduct these figures of capital expenditure from the figures of ordinary total expenditure as shown by the Finance Secretary and Accountant General we shall be able to see that so far as ordinary income and expenditure of Sind is concerned it is a surplus rather than deficit Province. The figures constituting capital expenditure as shown above are contained in the booklet written by Mr. Jamshed Mehta who besides being a veteran politician is a great banker and financier. His figures have been mentioned by the Finance Department in their Demi-official attached herewith for perusal.

If Professor Chablani is to be quoted by Government there is no reason why should we doubt the veracity of the figures supplied by an impartial man (neither Hindu nor Mussulman) like Mr. Jamshed N. R. Mehta.

"Statistics are dangerous," declared the Secretary, Finance Department, Bombay, in his speech during the debate on the current year's budget in the last Session of the Council. The words are very significant in themselves and they are more so in connection with the financial position of Sind. Figures can construct anything and can destroy anything if the financial expert of any order so chooses. The layman is simply at his mercy. As an example of the above position described by me the comparison of Professor Chablani's estimates with those supplied by Government in their Demi-official of September, 1928, and later on officially, it will be seen how one economist (Professor) swells the figures of financial responsibility to 109 lacs of rupees and how the Government Financial expert reduces it to 60 lacs only. So many exaggerations contained in the Professor's estimate are pointed out in the Demi-official of September last. But if Government figures were also scrutinised by some independent and disinterested expert I am sure the phantom of deficit would have frittered away in the air before long. However I shall try to examine the figure of 60 lacs shown by Government as the total annual deficit and also 10 lacs as the additional annual expenditure to be borne by Sind on separation.

The ordinary annual deficit which separated Sind has to face is estimated to be Rs.50 lacs out of which 25 lacs constitute deficit from ordinary Revenue and expenditure and the remaining 25 lacs constitute share of public debt and interest thereon. If we dispassionately examine the first 25 lacs we shall be able to see that it does contain a portion of capital expenditure and interest which ought to have been included in the head of capital liability and shown as public debt to be paid by Sind.

For instance, item No. 14 (interest on works for which Capital Accounts are kept) which consists of no less than 15 lacs ought to have been included in the Capital Accounts. Item No. 16 in the Accountant General's statement should also have been included in the capital head the commitment having origin since 1926-27 only and consisting of productive capital work. In order to understand the import of my above argument I should like to mention here that a backward Province which desires to advance and there is room for development—it is the duty of the Government of India to help it in the struggle for progress to a reasonably considerable extent. The primary and important help which Sind will require from the Government of India will be the readjustment of its share of public debt; and reorganisation of Capital Accounts for Sind on liberal basis. For instance, if the Government of India permits Sind to borrow the capital as well as the recurring interest on the same for such period till the works for which the money borrowed have actually finished and yielded returns, Sind will find itself in no difficulty to pay off its debts easily and run its Government without any trouble. Another method of concession which Government of India should do to Sind to pay off its debts will be to extend the period of payment. The two suggestions that I have made above are neither the inventions of my brain alone nor are they impracticable. The first suggestion has been made by the Finance Department in paragraph 2 of their demi-official of September last while criticising the estimates of Professor Chablani. If the two above concessions are made by the Government of India, which they should, it will be seen from resurvey of the statements supplied to us that the annual deficit of 50 lacs will be reduced to nearly 10 lacs only. The "Axe of retrenchment" could be applied to many departments which have gone fat without rendering services commensurate with the expenditure incurred on them. Take for instance the Forest Department.

The annual income to Government from forests of Sind is only 7·1 lacs while the expenditure is 4 lacs, *i.e.*, more than half the income. I know for certain that there is great room for reduction of expenditure on

forests in Sind and this could easily be achieved. Another convenient department for economy is the General Department. The table of expenditure shows that the expenditure on this department has swelled from 14·3 to 44·5 lacs a year. Now we should not look at this expenditure as irreducible minimum. Similarly we can prune every department of its overhanging and artificial branches and bring it within reasonable bounds.

If the retrenchment as suggested above is carried through, I am sure that the remaining 10 lacs above mentioned will also vanish and Sind will have a well balanced budget to begin its career.

Now let us examine the question of extra expenditure to be borne by Sind on separation. Professor Chablani has taken pains to fix it up at the pitch of 39 lacs a year, while the Finance Department has been considerate enough to fix it at Rs. 10 lacs a year. The figure of additional expenditure has been given by the Secretary, Finance Department, in paragraph 4 of his letter and he has tried to quote Assam in this connection. I cannot understand how he has calculated 9 lacs to be the expenditure of Assam on General Administration yet if we actually compare the items of expenditure of Assam and Sind we shall be able to see that Assam does not spend very much more on its Governor and his staff than we do on the Commissioner-in-Sind. For instance the monthly salary of the Governor of Assam is only Rs. 5,500 while that of the Commissioner-in-Sind amounting to Rs. 4,000 not very much difference. The sumptuary and travelling allowances of both are nearly the same. As regards the Ministers Assam pays Rs. 3,500 to each of the four members and Ministers of the Council. Sind will at the outset need only two Ministers (Reserved and Transferred, Government have estimated 3). The salaries of these Ministers may be reduced to Rs. 2,500 or 3,000 each which means an expenditure of about 60 or 70 thousands, not a very big amount to be feared of.

As regards the Secretaries it can be easily assumed that after the establishment of Provincial Autonomy the services will be provincialized and the rates of the salaries reduced to the present provincial scale. There are already four assistants working under the Commissioner-in-Sind as his Secretaries—the first being an I. C. S. man while the remaining three are men of provincial grade. Assam has got only four secretaries including the secretary for the Council. They are men of Civil Service, but for the sake of economy, till funds permit, the present assistants of the Commissioner-in-Sind can conveniently be converted into secretaries for various departments.

As regards the Legislative Council it should consist of only 50 members according to Assam Council. It is obvious that the members from Sind attending the Legislative Council of Bombay perform very expensive journeys from Sind to Bombay, a distance about 800 miles, which will not be the case if the Council is held at Karachi, the capital of Sind. There will be very little extra expenditure so far as the travelling allowances of the members are concerned.

As regards the Legislative Council it should consist of only 50 members laments will not be available to Sind in the event of separation I should like to submit that the anxiety is not well grounded. For instance Sind has already got Heads of Departments just as Deputy Inspector-General of Police, Educational Inspector for Sind, Deputy Director of Agriculture, Conservator of Forests, Judicial Commissioner-in-Sind and so on. In fact these heads being men on spot are the final authority for all practical purposes regarding the departments managed by them. The Commissioner-in-Sind is the virtual head of all departments. The question of recruitment, promotion, punishment, allowances, etc., etc., regarding every service under them is decided by these heads with the approval of the Commissioner-in-Sind (which he very often gives) and the Government of Bombay only accord their final sanction. So in fact the heads at the Headquarters of the Presidency are guided by the

opinions of their immediate subordinates in Sind regarding any question affecting Sind. Hence we can see that Sind will need no extra officials at present to be called by the big name of " Directors ". For the sake of formality we might call them Directors if we choose.

From the facts enumerated above it will be clear that the additional expenditure to be borne by Sind after separation will not be such as could not be managed by Sind itself. I will presently show that apart from any additional tax which the Mahomedan Association asking for separation have undertaken to bear, even the present sources of revenue to Sind are capable of considerable expansion after the completion of the Barrage. I think this fact requires no comment that the Barrage lands will pay for the Sukkur Barrage and canals irrigating that area, whether the management of the scheme is in the hands of the Government of Bombay or the Government of the Province of Sind, because it was made clear by the Chief Engineer, Lloyd Barrage, in answer to a question put to him by the Chairman of the Statutory Commission at Karachi, that the loan was taken by the Government of India at their own responsibility and handed over to the Government of Bombay. The Barrage will begin working from 1932 so the advantages incidental to the scheme will also accrue from the year the Barrage begins to function. The advantages incidental to the opening of the Barrage are briefly as follows:—

(*a*) Increase in population.
(*b*) Increase in the number of villages.
(*c*) Increase in land revenue.
(*d*) Increase in the sale of stamps owing to sale of land.
(*e*) Increase in the income from registration.
(*f*) Increase in Excise owing to the increase in population.

As regards (*a*) and (*b*) no stretch of imagination is required to understand it. As regards (*c*) direct profits may not accrue from the lands, within the Barrage Zone, immediately on the working of the Barrage in 1932, yet after 12th or 13th year from the date of the working of the Barrage there will be some direct income to Government from Land Revenue as is clear from the evidence of Mr. Harrison, the Chief Engineer, Lloyd Barrage, (on page 8 of the record of his evidence). The period of Revision of Land Settlements in Sind (which is 20 years) is also drawing near. It might begin from 1932. Land assessment is bound to increase as it invariably does, in consequence of a revenue inquiry. The general prosperity, as described by Mr. Musto in his booklet on " Sukkur Barrage and New Sind Canals " is bound to prepare people to bear any super-tax which may be imposed by their own Government for the purpose of nation-building departments. After having described the entire scheme of Sukkur Barrage and its advantages Mr. Musto remarks in his book thus: " Sind will become one of the richest and most important provinces in India, supplying grain and cotton to its poorer neighbours and to all parts of the world." It is sad to think that the majority of my friends, in spite of the above remark of an expert engineer like Mr. Musto, hesitate to recognise the claim of Sind to separation even after it is found financially fit.

As regards (*d*) (*e*) and (*f*) it is easy to imagine that the revenue from stamp and registration is bound to increase in view of the sale exchange and transfer of new lands to the extent of 15 lacs of acres besides private lands. The excise revenue is also bound to increase with the increase of population as the demand for drinks will be greater than at present. This has been admitted by the Secretary, Finance Department.

This finishes my arguments against financial difficulty postulated by my friends. The second difficulty raised by my friends is " Administrative." They have not taken pains to describe these difficulties in details which they anticipate but have shown agreement with those pointed out by the Government of Bombay in their memorandum, Part II.

The Government of Bombay have pointed out the following difficulties, namely:—

(*a*) That the area is too small for a province—smaller than Assam.

(*b*) That the population is also too small—smaller than Assam even.

(*c*) That there will not be enough work for a Governor and a cabinet.

(*d*) That there will be unnecessary expense on a cabinet of "at least" three ministers.

(*e*) That there will be also unjustifiable expenses on a secretariat.

(*f*) That Sind will be deprived of the control and advice of a large number of experts like the Director of Public Instruction, the Inspector-General of Police, the Chief Engineer for Irrigation, etc., etc.

Now as regards (*a*) and (*b*) I should like to submit that there has never existed in the past nor does exist at present any law, constitution or convention prescribing the limits—minimum or maximum—of any territory or Province in the world. There are biggest empires like the British Empire extending from East to West ostensibly most unwieldy for efficient administration—there are kingdoms of considerably large size and small size like Persia and Nepal; there are again the biggest states like the Nizam's dominions, Mysore and Baroda, and the smallest like Travancore, Sangli and Morvi.

Each of these empires, kingdoms, countries and states are being administrated properly for aught we know. If the considerations of area and population were to be the deciding factor in the matter of constituting a separate Province, Assam could not have been so constituted at the time of its birth for surely it must have been, as it is now, the smallest Province as compared to the other Provinces in India. Sind is only 6.000 square miles smaller than Assam while Assam has got 15,000 square miles as waste-land incapable of development except with a very large capital. As regards population, the development of the Barrage Zone will surely give impetus within a short compass of time, to the figure of population, which fact is not disputed even by Government. Apart from the above facts in connection with the area and population of Sind, should we not, in fairness, compare and see if there exist any Provinces within the British India smaller than Sind itself? Take for instance Coorg, North-West Frontier Province, Ajmere-Merwar, etc. Now Coorg has got only 1,582 square miles in area and has a population of only 165,833. North-West Frontier has got 16,466 square miles area and 22,47,696 population. Figures for Merwar-Ajmere territory are not available but that province is also smaller than Sind. I am not losing sight of the fact that they are being maintained from the subsidies advanced by the Central Government, besides their own revenue; but the fact that concerns us is whether there are any administrative difficulties owing to their small size and their population.

I am sure there are none so far as their area and population goes. If not, then no argument advanced by anybody on the basis of smallness of size or thinness of population should carry any weight in the decision of the question of separation of Sind.

As regards (*c*) I think this objection is not made with any seriousness for it is indisputable that as a result of the developments in Sind owing to Sukkur Barrage and a consequent increase in population, the matters of Sind are bound to grow in volume and complexity and will surely keep the Governor very well engaged during the whole year.

As regards (*d*) assuming that there will not be very much work, in the beginning of course, as presumed by the Government, I think two ministers with a salary of 2,500 or 3,000 a month will be enough to make a cabinet. The less busy they are with routine the more they will be able to pay attention to the general good and development of the province (coming in direct touch with the people), and I think their utility will justify the meagre expenditure of about 72,000 a year.

As regards (*e*) and (*f*) I have already explained the situation and made my suggestions in my arguments on the financial aspect of the question and shown that there will be no necessity of employing any extra secretaries or directors in the beginning. With the material advancement of the Province and adequacy of funds, the Government may employ better men if they like.

Government have also pointed out another (minor) difficulty of maintaining small cadres in the service as there will, they say, be only 10 districts in Sind. From the point of view of the principle of "self-determination" and the fundamental rights of the people to self-government this difficulty should not have been mentioned at all, but since it has been raised by the Government I shall discuss it on its merits. I, however, emphasise again that things like cadres of services should not and cannot constitute as clogs to choke the current of people's liberties. People of any Province or country can never consent to accommodate their servants at the expense of their own "Self-determintion." But if we examine the conditions in Sind so far as services are concerned we see that Sind maintains a separate subordinate service cadre. As for the Provincial service in Sind, though the cadre is amalgamated with that of the Presidency, still the recruitment, the promotions, the transfers, etc., etc., are limited within the boundaries of Sind. Ordinarily a provincial officer-in-Sind is recruited, promoted and transferred in Sind. So is the case in the Presidency with the Presidency Provincial officers. So far as the case of the Indian Civil Service men is concerned they are under the direct control of the central Government and are interchangeable between the provinces, if the Government of India so chooses. In the first place it is hoped that all the services within an autonomous province will be provincialised in the course of time. If this principle comes into force then there will be no difficulty in maintaining separate cadres of services in Sind. The few high officials recruited for Sind Civil Service will earn their promotion very well up to the end of their service. Until this principle comes into force Government of India may keep the cadre of present civil service officials amalgamated with those of the Bombay Presidency. In practice even now the civil service officials posted in Sind in the beginning of their service are very often continued in Sind for a very long time until they have approached, nearly, the maximum limit of their service. This is very necessary from administrative point of view as the high officials owing to their long stay in Sind thoroughly understand the people of Sind who are diametrically opposed (in history, language, habits, etc.), to the people of the Presidency. From the above argument it will be clear that the difficulty of maintaining small cadres of services in Sind is merely a phantom of the fears of the Civil Service men now serving in the Presidency and in Sind it is not a practical difficulty worth taking notice of in the decision of the question of self-determination of people.

The third fundamental difficulty pointed out by my friends, constituting majority, is that Sind will not be able to get Provincial Autonomy on separation, and thus will be deprived of a unique privilege shortly to be conferred upon the Bombay Presidency. I regret to remark that it is a very illiberal and narrow view taken of the rights of the people. It strikes at the very root of the principle of self-determination to the people of India involved in the declaration of 1917. It also, I am afraid, recommends a policy of discrimination differentiation between province and province in India so far as their right to Self-Government is concerned. My friends express themselves thus in this connection: "But if Sind were a separate Province, it could not, at such an early stage, expect an equal privilege (with Bombay) and it would, therefore, inevitably be denied the advantage of any further step forward which Bombay may secure." Why Sind could not claim an "equal privilege" is not expressly explained. Apart from injustice I see no logic in the above statement. Sind has, to the common knowledge of all, remained

as a part and parcel of the Bombay Presidency since about 1847 A.D. Since its connection with the Presidency it has been enjoying the political status and privileges conferred on the latter. The people of Sind have as much participated in the legislation of the Presidency and have, therefore, as much training in the art of legislation as the people of the Presidency. Old as well as new Reforms have been worked by Sindhis as much as the people of the rest of the Presidency. How is it just or even logically sound that those very people who have enjoyed equal rights and privileges with their colleagues in the Presidency should be denied equal status simply because they want to develop separately. Why should one component part of a body-politic be considered inferior to the rest of the body. Every Province in India including Assam is demanding Provincial Autonomy. If others get, Sind will surely get. If others do not get Sind will also have to wait. In the circumstances there is no reason to preclude Sind from getting the privileges to be conferred upon the other Provinces. This argument advanced against Sind could logically be applied to a Province like the North-Western Frontier and British Baluchistan, which have never had a training in the field of Self-Government, but could it, in all fairness, be applied to Sind (on separation) when it has as much experience behind it as the Presidency proper. Apart from the indisputable right of Sind to an equal status with the rest of the Bombay Presidency, I for my part consider it preferable for Sind to get separation and be content with the present system of Government for some time, rather than consent to remain as a slave of the Presidency for ever. I agree with Mr. Jamshed Mehta, the President of the Karachi Municipality, when he says in his pamphlet "Separation of Sind." "If Bombay becomes autonomous and Sind does not after all it can be at the most for five years. These five years will pass away as a stage of transition and what is five years in the history of a nation"?

From what I have submitted above it is quite clear that neither the question of financial deficiency nor the Administrative difficulty nor future political status present any real difficulty to separate the Province of Sind from the Bombay Presidency proper. I consider it a political blunder to force a partner to remain in the Firm of partnership if he is unwilling to remain as such. It will give rise to unnecessary unpleasantness between the component parts of the Presidency and this unpleasantness is likely to interfere with the harmonious working of the new constitution. On a little deeper inquiry of facts my colleagues would have been convinced of the justice of claim for separation put forth by the people of Sind, just as two members of the Government of Bombay having thoroughly understood the situation have done. The above-mentioned two members of the Government of Bombay have dissented from the arguments of the Government to which my colleagues have fallen a prey.

I will now briefly submit the reasons why the people of Sind are pressing for the separation of Sind from the Presidency proper—in other words, I shall discuss the comparative disadvantages of union and advantages of separation:—

(1.) Geographically Sind is quite distinct from the Presidency; so much so that even official correspondence mentions "Sind and Presidency proper" as two component parts constituting the Bombay Presidency.

(2.) It has no historic connection with the Presidency in any age before the British conquest of Sind. It has been established by the pages of history that for ages together Sind has always been a separate state governed by rulers who extended their territories to the North of Sind, but never cared to have any connection with the territories constituting the Bombay Presidency proper now. Sind was thus ruled by its own rulers, having the seat of Government in Sind itself. Even after the British conquest for four years it was

ruled as a separate Province, with Sir Charles Napier as its Governor. Owing to some misunderstandings between Sir Charles Napier and the Bombay Government the former left Sind, which was attached to the Bombay Presidency under a Commissioner. Thus Sind was fortuitously wedded to the Bombay Presidency without a valid consent, and has since then been labouring under manifold disadvantages and disabilities imposed upon it by its espouse—the Presidency.

(3.) The mode of life, dress and habits of the people are entirely different from those of the Presidency. They are more akin to Baluchistan and Punjab than to the Presidency.

(4.) Sind has got its own distinct language, called "Sindhi," which is not spoken in any part of the Presidency.

Sindhi language possesses a vast treasure of literature—specially poetry.

(5.) Sind has got quite different systems of Land Revenue and irrigation. The problems of Sind connected with Land Revenue and irrigation are seldom understood by the members of the Council from the Presidency proper. The entire land revenue policy of Sind is shaped by the Commissioner-in-Sind by his special circulars, and it is very rarely that the Bombay Council gets any chance to discuss it on the floor of the House.

The result is that the grievances of the people of Sind in connection with Land Revenue and Irrigation matters seldom invoke any sympathy in the minds of the non-Sindhi members who are in majority in the Council.

(6.) Sind is separated from Bombay by about 800 miles, and this long distance from the Headquarters of the Government have resulted to the detriment of Sind in two ways—firstly, that every important matter takes a very long time to be finally settled; secondly, that there is less supervision of the Government on the administration of Sind. If the Government vests the Commissioner with the powers of the Local Government he becomes autocratic in his decision; on the other hand, if the powers are retained by the Government there occurs an incalculable inconvenience and inexcusable delay in the decision of every matter. I have got personal experience of such delays in the matter of education and the like. I think it is worth while quoting the words of an experienced man like Mr. Cadell, the late Commissioner-in-Sind, when he spoke at the annual Sind Dinner in London in June, 1927. He said: "It is worth consideration that Sind has not a single Government College. It has no public roads. Any correspondence on Education, Engineering, and such other subjects takes a very long time before it is finally disposed of." (Read this passage from the booklet by Haji Abdullah Haroon, M.L.A., presented by Mr. Khuhro to the Commission at Karachi).

(7.) The nation-building departments are practically starved. There are no roads worth the name for modern traffic and so also is the condition of railway communications. Public Health department activities are equally neglected. Education of the people is in a most deplorable condition. In spite of several schemes of compulsory education from Sind pending before the Government of Bombay since the last few years no scheme has been sanctioned so far for Sind. No Government College worth the name is established in Sind as referred to by Mr. Cadell above. The indigenous Industries of Sind are mercilessly allowed to dwindle and disappear.

To be brief Sind administration is carried on according to the policy laid down even previous to Minto-Morley Reforms. Owing to the apathy of the members of the Reformed Council from the Presidency, which apathy is of course based on ignorance of the conditions prevailing in Sind, Sind has continued as a step-child to the Presidency. No sincere

effort has been made to develop the country except lately by the construction of the Barrage. The Executive officers in Sind, deriving inspiration from their autocratic head, the Commissioner, do not feel any responsibility to the people. Public opinion as against official opinion carries no weight with the executive head in Sind. Officialdom is so supreme that none from the public (specially Mussulman public residing in the mufussil area) can raise voice against them or show any sign of independence. No sooner he adopts the unpalatable attitude towards any superior official than he is run in on any flimsy or fabricated charge, however respectable he may otherwise be. This is simply because the province of Sind is situated very far away from the seat of the Government and that the executive of Sind is not responsible to the legislature. These are briefly the disabilities and disadvantages under which the people of Sind are labouring and it is therefore that they want a Government " At Home " responsible to themselves directly.

The advantages of separation, if enumerated, will be many and manifold. Though my friend Dr. Ambedkar or Professor Chablani, the spokesman of Hindu Association, may attribute any dishonest motives to Mussalmans of Sind yet if any one were to look with unbiased mind at the facts on which the demand for separation is based, he would realise the justice of the claim. I shall be reiterating facts if I were to reply to each point of Dr. Ambedkar showing that Sind is benefited by amalgamation with the Presidency as I have sufficiently described the palpably backward state of affairs in Sind, when the opinion of Mr. Cadell, the man who has ruled in Sind himself and has got personal knowledge of affairs is quite enough to meet the argument of my friend Dr. Ambedkar whose knowledge of Sind affairs is only second-hand and seems to have been derived from the Spokesman of Sind Hindu Association.

Under a separate administration of its own with a responsible executive Sind is bound to develop in education, agriculture, public health, industries, public works and so on. The executive will have personal knowledge of every matter of Sind. The Governor will know everything personally. People will feel their responsibility more and more as they will be in charge of affairs of the Province.

Official influence will vanish and public opinion will be supreme. The moral, material and intellectual condition of the people is bound to improve with a Government of their own. They will even be willing to pay any tax for their own improvement.

Now there only remains one point to be answered and that is the point raised by Dr. Ambedkar that it is only the Mussalman community that is demanding separation and that they are doing so from communal point of view and which point if conceded to will prove detrimental to the development of nationalism. In this connection I submit that he is absolutely wrong even in the very inception of his argument. It is not a demand on behalf of Muslim community alone. It is a joint demand on behalf of all the communities inhabiting the soil of Sind. Even Hindus have supported the demand since ages. I think my friend Dr. Ambedkar will be shocked to hear that even the most representative Hindu body like the Sind Hindu Samelan in their Conference held in April 1927 at Sukkur passed the resolution of Sind separation unanimously.

Now can any one with an unbiased mind call any question as communal if it is supported by the most representative bodies like the All-India Congress Committee, the Muslim League, the Nehru Committee, the Sind Mahomedan Association, the Sind Hindu Samelan, the Muslim All-Parties Conference and the Parsi Community inhabiting Sind. It is strange that no one from among the above representative bodies suspected any communalism in the demand, but only our friend Dr. Ambedkar was clever enough to diagnose the malady.

To be fair, one has to examine every question of this nature on its merits whether it emanates from one community or the other. If any Province deserves grant of self-determination on merits it must be conferred without attributing any motives to the class of the public from whom the demand comes. The justice of the demand has been admitted even by Hindus; how is it that my friend Dr. Ambedkar should draw far fetched conclusions from the demand simply because the demand was placed before the Commission by the Sind Mahomedan Association and opposed by Sind Hindu Association. This betrays only rank communalism in the minds of those who accuse others of communalism.

In the end I would submit that Sind deserves separation from every point of view, and it should therefore be immediately separated on the introduction of the new Reforms in India. I am supported in this conclusion by the most representative bodies of India and Sind mentioned above and also by two members of the Government of Bombay.

SYED, MIRAN MAHOMED SHAH, M.L.C.,
Member, Bombay Provincial Committee.

25th April 1929.

Demi-official No. 6094-A.

Finance Department,
Bombay Castle, 11th September 1928.

DEAR MR. NOOR MAHOMED.

With reference to your letter dated 21st August to Mr. Wiles, I enclose herewith statements showing the Provincial receipts and Provincial expenditure in Sind during the first four years of the Reforms period. Later figures are not avilable. The figures of expenditure only represent the actual payments made from the treasuries in Sind together with the necessary account adjustments which are usually made at the end of the year. No debit to Sind is shown on account of any portion of the expenditure on general supervision and control incurred either at Bombay or Poona. The large fluctuations in the figures under "Land Revenue" and "General Administration" in the statements enclosed are due to changes in accounts classification, and the figures under both the heads if combined together will be seen to remain fairly constant. The large expenditure under "14—Works for which capital accounts are kept—Interest on debt" and "55—Construction of Irrigation Works" during 1923-24 and 1924-25 is due to the commencement of the Lloyd Barrage and Canals Construction Scheme.

2. I am also to enclose a note on the criticisms of Mr. Jamshed Mehta and Professor Chablani on the financial aspects of the separation of Sind from the Presidency.

Your sincerely,

To

NOOR MAHOMED, Esq., M.L.C., B.A., LL.B.,
Cantonments, Hyberabad, Sind.

Statement of Provincial Receipts in Sind for the years 1921-22 to 1924-25:—

Major Heads.		Figures in lakhs of rupees.			
		1921–22.	1922–23.	1923–24.	1924–25.
V	—Land Revenue	144·2*	83·5	72·1	62·0
VI	—Excise	31·0	35·5	40·3	39·1
VII	—Stamps	16·0	19·4	20·2	19·8
VIII	—Forests	8·0	6·2	6·3	6·9
IX	—Registration	1·8	1·6	1·5	1·5
IX–A	—Scheduled taxes	—	—	·2	·6
XIII	—Works for which Capital accounts are kept.	†1·5	36·5	39·3	39·2
XIV	—Works for which no Capital accounts are kept.	·5	·5	·1	·1
XVI	—Interest	1·7	3·6	2·7	1·8
XVII	—Administration of Justice ...	1·5	2·1	1·9	1·8
XVIII	—Jails and Convict Settlements	·8	·8	1·0	1·2
XIX	—Police	·2	·3	·2	·4
XXI	—Education	·7	1·0	1·0	1·5
XXII	—Medical	·2	·4	·4	·3
XXIII	—Public Health	—	·1	·1	·2
XXIV	—Agriculture	·4	·4	·7	·7
XXVI	—Miscellaneous Departments ...	·1	—	·1	·1
XXX	—Civil Works	·5	·9	·7	·9
XXXIII	—Receipts in aid of Superannuation.	1·4	1·7	2·1	2·0
XXXIV	—Stationery and Printing ...	·2	·2	·3	·3
XXXV	—Miscellaneous	·2	·3	·8	·3
		210·5	195·5	192·0	180·7

* Inclusive of " portion of Land Revenue due to irrigation ", which is shown in subsequent years under the head " XIII ".

† Working Expenses for this year are shown on the expenditure side.

Statement of Provincial Receipts in Sind for the years 1921-22 to 1924-25—*continued.*

Major Heads.	Figures in lakhs of rupees.			
	1921–22.	1922–23.	1923–24.	1924–25.
	ORDINARY EXPENDITURE.			
5. Land Revenue	23·0	40·1	39·2	13·8
6. Excise	2·5	1·3	1·3	1·9
7. Stamps	0·7	·9	·8	·7
8. Forests	4·2	3·5	3·6	4·1
9. Registration	0·8	1·0	·9	·9
XIII.—Irrigation—Working expenses ...	25·1	*	*	*
14. Works for which Capital accounts are kept—interest on debt.	11·4	12·9	16·2	21·5
15. Miscellaneous irrigation expenditure	38·2	23·1	13·5	23·1
22. General Administration	14·3	20·7	19·6	44·8
24. Administration of Justice ...	10·0	9·6	10·0	11·5
25. Jails and Convict settlements ...	6·3	5·9	5·2	5·9
26. Police	40·8	36·1	35·1	36·0
27. Ports and Pilotage	0·1	·1	·1	·3
31. Education	23·4	23·0	26·6	23·8
32. Medical	5·9	4·6	5·3	5·3
33. Public Health	3·1	3·5	2·9	2·9
34. Agriculture	3·5	3·3	3·3	3·4
37. Miscellaneous Departments ...	·3	·3	·3	·3
41. Civil Works...	22·2	10·4	6·5	8·0
45. Superannuation allowances and pensions.	5·9	6·1	6·9	7·1
46. Stationery and Printing	1·2	1·3	·9	1·0
47. Miscellaneous	1·5	1·3	4·0	5·2
Total ...	244·4	209·0	202·2	221·5
	CAPITAL EXPENDITURE.			
55. Construction of Irrigation Works...	5·6	19·1	51·5	124·0
56A. Capital Outlay on improvement in Public Health.	—	5·3	·5	—
60. Civil Works not charged to Revenue	—	7·1	5·5	12·2
Grand Totals ...	250·0	240·5	259·7	357·7

* Working expenses have been deducted from gross receipts and only the net receipts have been shown under " XIII " on the receipt side.

NOTE REVIEWING THE CRITICISMS OF MR. JAMSHED MEHTA AND PROFESSOR CHABLANI ON THE FINANCIAL ASPECTS OF THE SEPARATION OF SIND FROM THE BOMBAY PRESIDENCY.

A glance at the statements of Revenue and Expenditure in Sind for the first four years after the Reforms will show that the present revenue of Sind is not capable of meeting the ordinary revenue expenditure of that province. The average annual revenue deficit for the years 1921-22 to 1924-25 works out at about Rs. 25 lakhs. To this must be added the cost on account of general supervision and control which will have to be borne by Sind if separated from the Presidency proper. This additional cost on account of the Head of the Province, Executive Council and Ministers, Legislative Council and Secretariat may, reckoned on a modest

scale on the basis of the expenditure at present incurred in Assam (the smallest province in India), amount to about Rs.9 lakhs. To this again must be added the cost of strengthening the establishments, etc., in the offices of several Heads of Departments in Sind consequent on the increase of their responsibility by the removal of the supervision and control at present exercised by the Heads of Departments at Poona. The total additional cost on administration may roughly be set down at Rs. 10 lakhs.

2. Mr. H. L. Chablani in his pamphlet on the financial aspects of the separation of Sind from the Bombay Presidency has stated that over and above the additional cost of a separate administration, taken at Rs. 10 lakhs above but computed by Mr. Chablani at 39 lakhs a year, Sind will have to find over a crore of rupees on the items mentioned below:—

	Mr. Chablani's Estimate.
	lakhs.
(1) Average annual deficit	26.07
(2) Famine Insurance Grant applied to interest of the Lloyd Barrage	10
(3) Share of interest and sinking fund on Public debt (not included in the figures given in the statement of expenditure)—	
(*a*) 1/3rd of 32·07 lakhs due to the Government of India on 8·9 crores, the capital on irrigation works handed over in 1920	10·9
(*b*) Interest on 3 crores spent by the Bombay Government on Sind irrigation till 1921 at 5½ per cent.	16.5
(*c*) 1/3rd of 15·86 lakhs, the interest on 279 lakhs borrowed for irrigation works from 1921 to date	5
(*d*) Interest on 1/4th of 3·36 crores borrowed during 1922-25 for other purposes ...	4·7
(*e*) Repayment of (*b*) and (*c*) in 60 years and (*d*) in 30 years	8·9
(4) Provision for Famine Insurance	13
(5) Contribution to the Central Government ...	14
	109·07
Allowance for any margin of error ...	9·07
	100

Mr. Chablani's above estimate errs on the side of exaggeration as shown below.

Item (1)—Average deficit has been set down above at Rs.25 lakhs. As regards item (2), Sind can, if it so desires on separation, discontinue the contribution of Rs. 10 lakhs from the ordinary revenue with the sanction of the Secretary of State. The whole of the capital required for Lloyd Barrage Scheme, with the interest during the period of construction, will then be borrowed although such action would result in lowering the estimated percentage of profit on the scheme. This item can therefore be ignored. The expenditure mentioned in clauses (*a*) and (*c*) of item (3) above has already been included in the statement of expenditure under the head "14-interest."

The expenditure mentioned in clause (*b*) of item (3) ought to be reimbursed to the Presidency proper, as the profits on the irrigation expenditure incurred from the surplus revenues of the Presidency proper will continue to accrue to Sind.

Clause (*d*) of item (3) represents interest on capital borrowed for Civil Works, Sanitation Works, etc. This liability which has not been included in the statement of expenditure will also have to be shouldered by Sind on separation. A proportionate portion of Sinking Fund charges for the expenditure referred to in clauses (*b*) and (*d*) will also have to be provided for by Sind, the total liability of Sind under item (3) may be roughly taken at Rs. 25 lakhs.

As regards item (4), it is expected that once the Lloyd Barrage comes into operation that the chances of famine in Sind will be greatly lessened. Perhaps some expenditure might occasionally be required for relief of areas suffering from the effects of floods. Like Assam, a small annual provision of Rs. 10,000 might do for this purpose. This may therefore be ignored. The last item, namely that on account of Provincial Contribution, has now vanished.

3. The total additional burden including the ordinary revenue deficit of Rs.25 lakhs and Rs.10 lakhs on increased cost of administration which Sind will have to provide for on separation by means of additional taxation, thus aggregates to about Rs.60 lakhs. It will also have to provide something for expanding the activities of the nation-building departments, otherwise its progress will remain stagnant for a number of years to come. Profits from the Lloyd Barrage Scheme may, of course, be expected to increase the resources of the province.

4. As regards the question whether Sind is large enough to become a province, attention is invited to the following figures of comparison with Assam (the smallest of the Governor's Provinces) which speak for themselves.

The area of Sind is 46,506 square miles as against 63,510 square miles of Assam. It has a population of only 32·79 lakhs, while Assam has 79·9 lakhs. It has only 5,107 villages against 30,957 villages in Assam. A small province is by itself a very serious handicap in the race for progress. The smaller the province, the less varied in economic characteristics will be its various parts, and the more severe will be the effect of a failure of crops or of famine or of some other natural calamity.

APPENDIX B.

Minute of Dissent by Rao Saheb D. R. Patil.

I.

I am constrained to append this minute of dissent to the Majority Report owing to some fundamental difference on certain questions dealt with in that Report.

2. Before dealing with these questions, I wish first of all to make it clear that the main basis of the constitutional reforms in my opinion should be the attainment of Dominion Status within the British Empire.

3. After the experience gained in the working of the present reformed constitution, the absolute necessity of a radical change in the dyarchical form of government has been sufficiently established and, according to me, it should disappear without any delay and should give place to a system of full autonomy in the provinces. I trust everyone will agree with me when I assert that the people of this province have on the whole worked the Reforms in a spirit of goodwill and with determination to use the powers to the best advantage by acting in co-operation with the Executive. The Legislative Council of this Province has also shown its constructive tendency by taking practical measures for the social and economic uplift of the province. It must, however, be recognised that the difficulties experienced during the last eight years in the working of

the Reforms in the very necessary development of the nation-building departments, in themselves, constitute a solid ground for the grant of full provincial autonomy. The present system has blocked real progress and so I strongly urge upon the Statutory Commission the absolute necessity and urgency of taking a bold step forward and showing their trust in the capacity and judgment of the people of this Province. I may assert that anything short of such a step to which the people have been eagerly looking forward, will be received with disappointment and will alienate public sympathy and goodwill towards the proposals which may be finally made for further advance, and deprive them of the strength derived from the support of the people themselves.

II.—Law and Order.

4. Law and Order is the corner-stone of the fabric of the provincial government; and it would be a travesty of provincial autonomy if this subject is not transferred to a popular minister unless there are more convincing grounds in favour of keeping it as a reserved subject than have been put forward.

5. An immediate transfer of Law and Order to the popular control has been objected to by the Majority Report in the following words:—

> "The existence of serious communal disorders between the two major communities in the Presidency and elsewhere in India makes the immediate transfer of this subject to the control of a newly elected Council difficult and dangerous. Such transfer may have very serious and prejudicial effect on the efficiency and impartiality of the police and the magistracy."

The subject of Law and Order has been administered by Indians as members of the Executive Council in Madras, the Central Provinces and the United Provinces, and so far as my information goes, there have been no complaints that their administration was in any way prejudical to the efficient working of the department. It has been urged that the objection is not to the portfolio of Law and Order being held by an Indian, but to its being held by a minister responsible to and liable to be influenced by the wishes of the Legislative Council. It is feared that in times of communal trouble the minister may be subjected to unfair pressure by the members of his own community and to unfair criticism by the members of other communities. My own view is that this danger is to a considerable extent over-estimated. Any improper action on the part of the minister will be immediately exposed both in the Legislative Council and in the press, and it is unlikely that in normal times there will be any improper interference on the part of the minister with the police or the Magistracy. I admit, however, that some risk of such interference does exist, but it will only be by actual experience of the difficulties of administering the subject and by occasional mistakes that the people will learn to manage their own affairs, and the risk has to be run sooner or later. The objection urged is one which will be brought forward whether the subject of Law and Order is transferred to-day or ten years hence. On the other hand I consider that the difficulties which will arise from the continued reservation of this one subject are more serious than is generally realised. The mere fact that the subject of Law and Order is administered by a member who is not responsible to the Legislative Council and that the grants for this department are not entirely subject to its vote will produce in the Council a feeling of hostility towards the department, and with the abolition of the official and nominated members of the Legislative Council the member in charge of Law and Order will find it extremely difficult to carry through his proposals. When the ministers have been made entirely dependent on the vote of the Council, it will no longer be possible for them and their followers to support the members in charge of the reserved departments in the way in which they have done in the past. Constant friction and deadlocks will result. If,

however, it is feared that the results which the Majority Report apprehends will follow after Law and Order is made a transferred subject, I would vest the Governor of the province with all the necessary emergency powers to be exercised in the public interest whenever he feels that the interests of one community are jeopardised by a minister belonging to the other community. The Governor can well be trusted to hold the scales even between the different communities when the occasion arises. The reservation of such power in the Governor of the province will not militate against the grant of full autonomy including the transfer of Law and Order.

5. It will be remembered that the Government of Bombay have recommended in their memoranda to the Statutory Commission that this province may be given complete provincial autonomy with necessary and proper safeguards. In the memoranda of the Bombay Government three safeguards have been suggested; the safeguard which I recommend is one of them.

6. The non-official evidence of the representatives of different communities heard by the Commission in Poona is in favour of full provincial autonomy. Mr. Kazi Kabiruddin, the ony spokesman of the Muslims of the Presidency proper, strongly expressed his view on behalf of the Muslim community in favour of full provincial autonomy. It is only the Muslims of Sind that gave evidence against the transfer of Law and Order to popular control. I think I am justified in saying that the overwhelming view of the non-official witnesses before the Commission is for the grant of full provincial autonomy.

7. Another serious objection against the reservation of Law and Order is that it involves the maintenance of a separate purse for this subject as urged by the Majority Report. Divided heads in the Budget will be a serious drawback in the actual development of provincial autonomy. Finance is the soul of the administration and one of the handicaps of dyarchy has been that the reserved subjects took a large share of the provincial income at the cost of the transferred subjects. It would be wrong to perpetuate the evil of earmarking a portion of the provincial income for Law and Order over which the popular representatives will not have a real control.

III.—Second Chamber.

8. I strongly disapprove of the proposal in the Majority Report for the constitution of a Second Chamber in the province. When the Montagu-Chelmsford reforms were discussed, this question was fully considered and negatived after full deliberation. I am of opinion that the Central Legislature should be bi-cameral while the Provincial Legislature should continue to be uni-cameral. A two-chamber council, however, is, for a component province, neither necessary nor useful. This duplication of legislative machinery will increase the financial burden upon the exchequer of the province. Apart from the cost it involves, the proposal is not conducive to the growth of democracy in the province. On the ground of expense alone, a second chamber is to be deprecated, and added to this, is the consideration that especially when the Council is constituted on a wide basis and made thoroughly representative of all the interests concerned, there is no reason to apprehend that that Council will not discharge its duties in a responsible and constructive manner and in a spirit of harmony.

9. The Majority Report seeks to justify the constitution of a second chamber principally on the ground that it is very necessary that certain safeguards should be provided against the passing of hasty or ill-considered legislation, or of legislation which may discriminate against particular classes or communities. I think that this safeguard would be tantamount to taking away with one hand what is given with the other. If any safeguards are necessary I would recommend the Governor being

given wide powers of certification, veto and emergency interference including dissolution such as are already enjoyed by him under the Government of India Act.

10. The power proposed to be given in the Majority Report to this new chamber intended to consist of a few big landholders and commercial or industrial magnates, is absolute in so far as it can by its fiat overrule and override the decisions of the Council. These upper classes have been already provided with larger representation than before, and it would be nothing but unjust to the middle and lower classes that the upper classes should have a double opportunity of influencing and overriding the will of the popular electorate. I should like to say in conclusion that I would trust the absolute discretion of the Governor in preference to that of a second chamber, he having parliamentary experience. I can also put more trust in the honesty and integrity of the Governor when he has to take the responsibility on his own shoulders for any extraordinary acts than when he is called upon to act through the intermediary of a second chamber.

IV.—Representation and Distribution of Seats.

11. I am of opinion that population alone should form the basis of representation. The representation under the present system is based upon no fixed principles and whatever factors might have been taken into consideration in the past for the purpose of determining the basis of representation, are all, to my view, opposed to justice, inasmuch as the rural areas which are the real foundation of the Empire have not been given their due share in the matter of representation.

12. It is a well-known fact that India lives in its villages and not in its towns and it will be recognised that the main financial burden of the province falls upon the population of the rural areas. The provincial income derived from such sources as land revenue, excise, irrigation, forests, court fees, etc., is much greater than that derived from the residents of urban areas. It is, therefore, just and proper that the rural areas should find an adequate and proportionate scope and opportunity for expressing their will and redressing their grievances under the new constitution. I am glad to find that the Majority Report has conceded that in the municipalities, local boards and village panchayats the rural population have received adequate training in the discharge of their civic duties. I think, therefore, that the ground is well prepared in the rural areas for recognising their due claims for a larger and more effective representation in the new Council than is contemplated by the Majority Report.

13. I am opposed to the creation of plural-member constituencies as suggested in the Majority Report. In the attempt to create plural-member constituencies everywhere my colleagues who have signed the Majority Report have given excessive representation to some constituencies, for instance, Kanara and Panch Mahals, both of which according to their voting strength are entitled only to one seat each.

14. I am opposed to basing representation on voting strength as that basis gives undue preference to the rich as against the poor in the matter of representation. In the allocation of seats as given in the Schedule appended to the Majority Report there are very considerable inequalities between the different divisions of the Presidency and between the different districts. The Northern Division with a much smaller population than the Central has received a larger number of seats.

15. Forty-three seats out of the total number of 140 have been allotted in the Majority Report to the Muslims whose total population, both rural and urban, comes to 3,775,100. Roughly speaking one seat goes to about 87,800 Muslims. For Non-Muslim constituencies the Majority have allotted 21 seats to urban areas for a population of

1,675,398. So one seat is provided for about 79,800 urban people. Forty-six seats have been allotted to rural areas for a population of 14,090,130, *i.e.*, one seat for a rural population of about 300,000. These figures will show that the rural areas have been most unjustly treated in the matter of representation. It can on the whole be said with sufficient justification that the Muslims, the urban people and commerce and industry have been allowed an undue share of representation at the cost of the agricultural classes which are the real pillars and benefactors of the country. In view of my criticism, I hope the Statutory Commission will carefully revise the schedule prepared by the Majority Committee and see that justice is done to the rural areas in the matter of representation. I want to bring to the notice of the Statutory Commission that even according to the basis of voting strength adopted by the Majority the Thana District ought to get three seats instead of two.

16. I do not think that the seven seats reserved for the Marathas are sufficient. In my opinion these seats should be increased to ten abolishing the existing rotation system in the case of three districts, viz., Sholapur, Kolaba and West Khandesh. The importance of the backward classes justifies a measure of this kind. The list of Marathas and the allied castes mentioned in the Rules is not exhaustive. It should include more castes than those at present included in the light of the evidence of Messrs. Surve and Navle recorded in Poona. It may be noted that the backward classes did not, during the last eight years, succeed except on one occasion in returning their own representative to the Central Legislature. I, therefore, recommend one reserved seat for them in the Legislative Assembly.

17. The Mussalmans of the Bombay Presidency form one-fifth of the total population of the Presidency and, therefore, they are entitled to 28 seats out of a total of 140 seats. The Muslims demand separate electorates and 31 per cent. representation on the strength of the Lucknow Pact. I would not accept that Pact which to my mind is unjust, inequitable and unauthorised. As regards the Muslim demand for separate electorates, my own view is that there should be joint electorates for Hindus and Muhammadans with seats reserved for Muhammadans on the basis of their population. The creation of joint electorates will promote good feeling between the two communities and the growth of a spirit of goodwill and harmony and will tend considerably to reduce the existing unfortunate communal tension. Under the system of reserved seats it will be open to the Muhammadans to capture more seats than the number reserved.

Sardars' Representation.

18. I consider the proposal to increase the representation for Sardars and Inamdars in the Legislature as highly reactionary. If as Sardar Mutalik, their witness before the Statutory Commission claimed, the Sardars and Inamdars care for the poor people and stand for public interests, I do not see why they should claim to have any special seats for themselves. If they are honestly out for the service of the people, and if they exercise any genuine influence on the people and the country as they have claimed, then I think they ought to come in through the general constituencies. When these are enlarged as is proposed to be done, they should experience no difficulty whatever in finding their way into the Legislature and exercising their proper influence on the course of political advancement in the Presidency. The Sardars and Inamdars cannot be allowed to further the interests of the class to which they belong as opposed to those of the people under the cloak of democracy. If they are really democratic and are sure that they enjoy the esteem and confidence of the people at large, which no doubt some of them do, I think separate seats for them should be unnecessary. I would, therefore, in the interests of

democracy and democracy alone propose the abolition of the special constituencies of Sardars and Inamdars and urge upon the Statutory Commission to allow the Sardars to take their chance of being returned to the Legislative Council along with the rest of their fellow countrymen through the constituencies.

19 I am in full sympathy with the desire of the depressed classes to take their proper share in the political life of the country. They must be given representation on their population basis.

Bombay, 28th April 1929. (Signed) D. R. PATIL.

APPENDIX C.

MINUTE OF DISSENT BY SARDAR G. N. MUJUMDAR.

I have the misfortune of finding myself in disagreement with the conclusions of the Majority Report on several points of vital moment. I record here, however, my dissent only from such of those conclusions as affect the basic principles of the frame-work of Government and important details thereof.

Provincial Autonomy.

The most important subject on which our Committee has to submit recommendations is in respect of the extension of the present sphere of responsible Government in the Presidency. The Committee have deemed it necessary to continue the existing reservation of Law and Order for administration by an irresponsible Government and the only reason which they have given in support of their recommendation is that, owing to the strained relations which subsist at present between Hindus and Mahomedans, the efficiency and impartiality of the Police and magistracy are in danger of suffering too great a deterioration to be consistent with public security. It is no doubt true that communal disorders have latterly become frequent and serious, but the majority of the Committee are taking, in my opinion, an illegitimate advantage of that undesirable fact when they make it the reason for withholding Law and Order from popular control. Whatever political differences there may be between the Hindu and Moslem sections in the Legislative Council—and that these differences are keen and acute I shall at once grant—it has never been my experience that they have been allowed by either section to impede the administration of justice or the taking of necessary steps towards the maintenance of public peace. The most extensive and bloody riots, of which the inspiration is supposed to be communal hatred, were those which were witnessed recently in Bombay City, and whatever the intensity of communal antagonism may be outside, within the Legislative Council there was complete unanimity about the need of probing the matter to the bottom and bringing the offenders to justice, whatever their creed or nationality may be. And I have no doubt that when the investigation which the Bombay Government have ordered into these disturbances is complete, the Council will oppose no obstacle on communal grounds to the taking of measures which may be found necessary either to prevent the recurrence of a similar outbreak in future or to deal swiftly and effectually with it if it should unhappily take place. There is, therefore, no ground for taking law and order out of the control of the Legislative Council. The Committee have no objection to entrusting this subject to a member of the Executive Council selected from unofficials, provided he be not subject to the control of the Legislative Council. The record of the Legislative Council for the last nine years affords no warrant for the unmerited slur which the Committee casts upon it by proposing that Law and Order shall continue to be a reserved subject. If the communal animosity raging outside has its interaction on the

Legislative Council, thus impairing the *morale* of the police and magistracy, how can the Committee contemplate the transfer of this department to the Council's control after five years? And what is the sense of making such transfer depend upon a favourable vote of the two chambers of the Council? If anything, the state of communal feeling at the time should decide the question, not the vote of a legislative body.

The Committee, in saying that all subjects but Law and Order should be transferred to popular control, give to what is in reality a slender and insubstantial concession the appearance of a large measure of advance. The only new subject of importance which they recommend for addition to the transferred list, however, is Land Revenue, the other subjects to be so added being of little relative importance. My principal objection to the Majority's recommendation is that it would be felt by public opinion to be too meagre a response to the growing aspirations of the public. The changes now to be effected in the constitution must above everything else fulfil one condition, viz., that they should be satisfying to the sober and thoughtful sections of the Community. I can think of no section which is politically awakened to which the transfer of Land Revenue in the Presidency, offset, however, by the creation of a Second Chamber (even when added to the transfer in the Central Government of a few subjects like Education, Public Health and Agriculture which as central subjects are of little consequence) will be satisfactory. In the event of public discontent persisting, the spirit of indiscriminate opposition and non-co-operation which is now in such strong evidence will also persist and go far to nullify the good effects of such concessions as may be made to public opinion. I would, therefore, urge that the advance now to be made in the Constitution should be substantial and generous enough to impress the public with a sense of its bigness and nothing short of full responsible Government in the provincial sphere will at the existing stage of development of political consciousness be regarded as big in any sense of the term. I do not apprehend that the transfer of Law and Order will be attended by effects prejudicial to the preservation of public safety.

If from the point of view of broad statesmanship the transfer of Law and Order is necessary, it is no less necessary from the narrow administrative point of view as well. The ill success or rather imperfect success, which has attended the working of the existing constitution, is due, in large measure, to the fact of a want of well-organised political parties in the Council; and the growth of such parties is impossible as long as dyarchy obtains. Under dyarchy the Ministers almost always cease to be the effectual leaders of their parties, because of their association with unpopular acts done by the bureaucratic wing of Government. The Ministers may have even opposed those acts in the Cabinet, but because they cannot publicly join with their followers in opposing them, the latter naturally suspect their leaders to be in the wrong box and cease to follow their lead. This state of things must continue as long as the present duality in Government continues. It is generally matters connected with Law and Order which bring odium upon the Ministers in the eyes of their followers in the Council, and if Law and Order continues to be a reserved subject even under the new dispensation, it is useless to expect that the reforms, slightly widened, will show any better results than those which have followed from the present reforms.

It may no doubt be urged, with great show of reason, that the evidence tendered before the Committee lends no support to the transfer of Law and Order, but the fact that almost every section of advanced opinion in the Presidency had decided to ignore the Joint Conference cannot be lost sight of. I have never favoured this policy of non-co-operation, but those to whom it belongs to frame a constitution must so frame it as to approve itself to the judgment not only of the supporters of the Conference, who after all are representatives of backward sections, but of the opponents

of the Conference as well, who represent the progressive sections. However deplorable the policy of the latter may be, it must be recognised that the successful working of the constitution depends after all is said and done upon the co-operation they offer and therefore the constitution to be formulated must be such as to liquidate their non-co-operation.

I would for these reasons recommend the transfer of Law and Order as well as other subjects to the control of the Legislative Council.

Mahomedan Representation.

The next most important question on which I differ from the Majority of the Committee is that of communal electorates for the representation of Moslem interests.

In the all too brief paragraph of the Majority Report on "separate Electorates for Mahomedans" in which the Committee have recommended the retention of the communal franchise for Moslems, without giving any reasons for this recommendation I could barely mention that my support for the recommendation was provisional. I feel that the Hindu-Muslim pact unofficially arrived at in 1916 and officially ratified in all essentials in 1919, must be honoured till both communities again agree to give it up in favour of something else. Attempts are being made by leaders of public opinion to replace this Pact by another of which mixed electorates would be the leading features as separate electorates are of the one now in force. These attempts have not yet attained that measure of success which is necessary in order to enable one to recommend to Government the substitution of common for communal electorates as an agreed measure. I am, therefore, constrained at this stage to fall in with the Majority of the Committee and agree to the retention of separate electorates for Moslems. My support, however, is conditional on the Pact being adhered to in all the Provinces. It has become necessary to make this clear in view of the fact that attempts are being made in certain influential quarters to depart from the provisions of the Pact in certain Provinces while requiring their fulfilment in others. The principle of giving to minorities representation in the Local Councils in excess of what their proportion to the population demands which is incorporated in the Pact, is invoked only in those provinces in which Mahomedans are in a minority while its application is challenged in those in which Mahomedans form the majority of the population. Such a selective enforcement of the Pact cannot be allowed. Either it stands as a whole or is abandoned as a whole. If in any part of India a departure is contemplated from this Pact in any particular without the consent of the parties who brought it about, the whole Pact is then reopened for discussion, not merely on the question of proportion of seats allotted to the two communities but on the question of communal electorates too. There are many like myself who are opposed to the communal franchise but who still feel bound in honour to support it, so long as the Pact remains. But no such obligation will rest upon them if the Pact is held to have binding force only in regard to certain matters and in certain provinces by any section of opinion and if this view is allowed to prevail.

If the question of a common versus communal franchise is thus thrown open to discussion, I would support the former and oppose the latter with all the force at my command. It is hardly necessary for me here to set out arguments in favour of my position at great length. They have now become a commonplace of politics. Since the publication of the Montagu-Chelmsford Report, in which common electorates were advocated with great vigour, two other State papers, equally momentous, have been issued, which too take up the same position on this question as the Montagu-Chelmsford Report. These are: the report of the Donoughmore Commission on the Ceylon Constitution (Cmd. 3331) and the Report of the Hilton Young Commission on East Africa (Cmd. 3234). Both these reports are so emphatic in their condemnation of communal representation

and so urgent in favour of its replacement by territorial representation that Government would perhaps be entitled to review the existing constitution of the electorates in the light of them even if the Pact had as large a measure of support of public opinion behind it as in 1916. But when this measure of support is fast dwindling and when a demand is being made on all sides to revise the Pact, Government ought to be willing to reorganise the electoral arrangements in the country in obedience to the principles enunciated in these reports. The analogy of Ceylon and Kenya is very close because in these two countries as in India, it was a question not merely of adopting for the first time either the territorial or the communal method of election which is simple enough, but of abrogating the one already in force and substituting the other in its place, which is very much harder. Whatever action His Majesty's Government may ultimately decide to take on these Reports, the Commissions of Inquiry at any rate felt compelled to recommend the abolition of communal electorates and the formation of common electorates in place of them. Such would clearly be the duty of the Statutory Commission in India. The East Africa Commission have made the adoption of common electorates contingent on their acceptance by Indians and Europeans but the Ceylon Commission have recommended it without regard to the wishes of the communities concerned. The theoretical consideration which weighed with these commissions, e.g., that common electorates promote national unity while communal electorates impair it, etc., etc. I need not repeat here. I would, however, only refer to one of them on which much stress was laid by the Ceylon Commission as peculiarly applicable to Indian conditions, viz., that "the desire for communal representation tends to grow rather than to die down in course of time." This is a very important consideration because even the most ardent supporter of communal representation admits and the Mahomedan witnesses who appeared before the Joint Conference frely admitted to borrow the words of the Commission in Ceylon, "That the communal form of appointment to the Legislative Council was a necessary evil and should only continue until conditions of friendliness and acknowledgment of common aims were developed among different communities." That day, however, experience shows, is not hastened but adjourned by the continued existence of communal electorates. These electorates tend to weaken corporate consciousness and strengthen communal consciousness and this only helps to generate a demand for an extension of the existing electorates. It is therefore idle to hope that the separate electorates are only a passing phase of Indian politics, to be tolerated for a brief while. The longer they are allowed to remain, the more assured will be their future existence.

The conclusion, therefore, that emerges from this vicious circle is that the evil which is almost universally acknowledged, should be remedied while it is yet of no long standing.

Appeal is frequently made to clauses in the post-war Treaties of certain successor States intended to give protection to minorities of race, religion, and language. Briefly the rights conferred include equality before the law; political equality, free use of language in social business intercourse, in religious worship, in the press or public meetings and in the law Courts; the right of minority peoples to establish and maintain at their own expense charitable, religious, social, or educational institutions; the use of their own language in the primary public Schools in towns and districts in which the minority constitutes a considerable proportion of the population—and an equitable share of the States and Municipal appropriations for educational, religious or charitable purposes. There is no section of opinion in the country which will not give a ready and enthusiastic approval to conferring all these rights on the Moslems and other minorities and writing them into the constitution so as to place them beyond the caprice of the legislatures. It should be noted, however, that in none of such treaties is provision made for the communal system of representation. The treaties concede a sort of Cultural Autonomy to

minorities and it is thought that when that is conceded the minorities receive all the protection that they need and deserve.

Communal electorates being rejected on the ground of principle the question that arises is whether in common electorates with an equal franchise a certain proportion of seats should be reserved for Moslems in Bombay where they are in a minority. To this as a last resort I have no objection, though I would urge an attempt being made to obviate the reservation of seats by so constituting the electorates as to secure for Mahomedans the same relative voting strength as they have in the population. It will be noticed that Mahomedan witnesses that have appeared before the Joint Conference in this Presidency have laid much emphasis on this and for this purpose some have advocated adult suffrage though apparently they were not quite convinced of the expediency of that measure at the present moment. I am in favour of devising the franchise in such a manner that the Moslems will retain among the voters the same proportion as they have in the whole population. But when this is done, there is really no need for reservation of seats. Still if Moslem fears cannot otherwise be allayed I am willing to have a certain number of seats reserved for them—the maximum being represented by the proportion of the Mahomedan Community to the total population of the presidency.

Representation of other Communities: Marathas and Allied Castes.

I see no need any longer of continuing for the benefit of the Marathas and allied castes the concession given to them at present of having seven seats reserved for them. The three general elections that have taken place so far have amply shown that the communities concerned are now well able to stand upon their own legs without any outside prop and the prop may therefore be safely removed without any risk of injury to the communities. I must not be misunderstood in recommending this change as holding that the interests of the communities in question can be protected even by a smaller number of their representatives in the Council. Only I feel so certain of the guaranteed number of seats, and indeed, in course of time a larger number, being won by them in open competition by sheer dint of merit that I cannot persuade myself to sanction any longer what is universally recognised as a serious detraction from the methods of election in force in democracies.

Depressed Classes and Labour.

In the case of the depressed classes and the labouring population, however, such reservation is absolutely necessary in the present circumstances if nomination is to be done away with, as it ought to be, and I entirely support the recommendation of the Majority Committee in this connection.

Landholders and Inamdars.

With regard to the representation of Landholders and Inamdars, I am surprised at the attitude of the majority. While they clearly admit the necessity of giving increased representation to the Landholders and Inamdars, as they are, they say, the more stable elements of the population, only two more seats have been recommended by them, one for the Southern Division and the other for the Sind Zamindars and Jahagirdars.

The table given below will show the extent of interests which the landholders have got, as also the number of electors in every division of the presidency proper—

Divisions.	*No. of alienated villages.*	*No. of voters in the constituency.*
Central	1,048¾	305
Southern	715	212
Northern, Bombay and Suburban	312½	160
	2,076¼	677

Thus this class holds one-tenth of total villages and about one-fourth of the land revenue of this Presidency proper as alienated. Though the number of alienated villages is 2,076, the number of voters are only about 677. The qualification for a voter being the sole holder of an entire alienated village both for the Legislative Council and the Assembly. But this fact is always lost sight of by the people generally. The vast extent of interests which the alienees have got, must be taken into consideration while distributing seats to this landholders class in the Council and the Assembly.

From this class, from 1862 to 1892, one representative was nominated to the Provincial Council. By the Reforms of 1892, the Deccan Sardars were enfranchised to send one representative to the Provincial Council. In 1909 the Sardars of Gujrath and the Sind Zamindars were enfranchised to send one representative each in addition to the one on behalf of the Deccan Sardars. By the Reforms of 1919 the constituency was enlarged by the addition of Inamdars and Jahagirdars, but the number of representatives to be sent by all of them was kept the same, viz., 3, that is, with all the expansion of the Council from time to time the Deccan Sardars and the Inamdars are just in the same place as they were in 1861.

With the expansion of the Councils in 1919 the three seats of the landholders ought to have been increased proportionately. It was a clear injustice to them. This injustice may now be removed by allotting an adequate number of seats to this class in the Legislative Council and the Assembly.

It is often argued that there is no necessity of special representation to the landholders—Sardars, Inamdars and Jahagirdars—in the Councils when they can very well be elected through the general constituency. I really wonder at the mentality of those who say so. They almost forget the fact that when a Sardar or an Inamdar does not hold land paying an assessment of Rs. 32 he cannot be an elector in the general or rural constituency. When a Sardar or an Inamdar is either a title holder or an alienee of an entire village and an agriculturist, he can exercise his rights in either capacity through the special or general constituency. It would be a grave injustice to him if he is deprived of one of his rights. There is, besides this, one more point worth consideration. In the general elections unless the Sardar or Inamdar champions the cause of and goes under the ticket of some party such as communal, liberal, nationalist, congress, etc., then only there is chance of his success, otherwise not. Communal representation is altogether different from class representation.

Adequate representation to the special interests would always serve as a restraining influence on the Council and will ultimately serve the purpose of a Second Chamber. The presence of this class in adequate numbers will serve as a healthy check on hasty and ill-considered legislation. These representatives, having a very big stake in the country will always be persons of balanced views and their voting will be guided by reason and sense of responsibility.

The landed aristocracy of the Bombay Presidency is most important in the history of India. It has founded Empires, led armies, fought battles and was chiefly responsible for the Civil and Military administration of the country. This constituency is free from any communal feeling or bias. Only the special interest is recognised in forming this constituency. The constituencies consist of all castes and creeds and communities.

Their special advantage is that by their position as Inamdars they are able to understand and appreciate the difficulties of administration. No class is better fitted to represent the rural areas than this class as it is the only class with culture and education that comes directly in contact with the rural areas. I give below the extracts from the Montagu-Chelmsford Report, paragraphs 147 and 148.—

" The natural and acknowledged leaders in country areas are the landed aristocracy. They generally represent ancient and well born

families, and their estates are often the result of conquest or grants from some mediaeval monarch. By position, influence and education they are fitted to take a leading part in public affairs. Some of them are beginning to do so; and our aim must be to call many more of them out into the political lists. They are conservative like the ryot, but like him they also will learn the need to move with changing times."

"No men are better qualified to advise with understanding and great natural shrewdness on the great mass of rural questions which will come before the Provincial legislatures."

The general attitude of the Council members towards the landholders is well described on pages 463-465 in Bombay Government Memorandum, Part I. As the size and composition of the new proposed council will be enlarged and as the rural franchise is proposed to be lowered to half of what it is at present, it is the more necessary to increase the representation of the landholders. Another reason for their increased representation is that Land Revenue will be a transferred subject. For all these reasons the landholders must have quite adequate and effective representation in order to protect their interests and to exercise due influence in the Council.

Under these circumstances I strongly propose that representation to this class should be increased and seats allotted to them in the Provincial Council whose total strength is 150 as follows:—

Central Division	3
Southern Division	2
Northern Division	2
Sind	1
	8

For the same reasons I would strongly urge the necessity of giving increased representation to the landholders in the Central Legislature. At present one seat is allotted alternately for Sind and Presidency proper. I would propose three seats—one for each of the three divisions—to be allotted to the landholders of the Presidency proper for every term of the Legislative Assembly.

I would further propose that a separate constituency of the landholders be formed to return one member to the Council of State from the Presidency proper for every term.

As I envisage it, the Legislative Council of this Presidency would be composed somewhat like this:—

Rural	27 Districts	81	81
Urban	(1) Bombay City	5	
	(2) Karachi City	1	
	(3) Ahmedabad City ...	1	
	(4) Surat City	1	
	(5) Sholapur City ...	1	
	(6) Poona City	1	
		10	10
Minorities	(1) Mahomedans	30	
	(2) Depressed	6	
	(3) Labour	3	
	(4) Europeans	2	
	(5) Indian Christians ...	1	
	(6) Anglo-Indians	1	
	(7) Inamdars	8	
	(8) Commerce and Industry	5	
	(9) University	3	
		150	

Second Chamber.

A representative as I am of the landholding class, pleading for a stronger representation of it in the Legislative Council, I am implacably opposed to the creation of a Second Chamber. The Second Chamber proposed by my colleagues is not the *bonâ-fide* second Chamber with revising and delaying functions which exist even in some States in Federal or Unitary Governments; it is on the contrary avowedly meant to do duty for "the special powers of vetoing and certifying which are at present vested in the Governor". The Committee is quite explicit about it. "The safeguards which we have provided", it says at paragraph 31, "and especially the creation of a second Chamber to a considerable extent render the exercise of such powers unnecessary". No Inamdar or commercial magnate, however favourable he may be to the creation of a normal second Chamber, will like to come into a Second Chamber of this character for no other object than to override the popular wishes on occasions on which the Governor would like them overridden. The second Chamber proposed to be created has not even a verisimilitude to second Chambers known to democratic Constitutions and thus particular project of a Second Chamber, I am sure, will be treated with the contempt which it deserves by the classes with whom the Chamber is meant to be filled.

Financial Proposals.

In the words of the Montagu-Chelmsford Report, the Government of India's control over revenue and expenditure is derived from the Acts of 1853 and 1858 which treated the revenues of India as one and applied them to the purposes of the Government of India as a whole. "In spite of the various quinquennial settlements from 1882 to 1912, the real responsibility for raising all revenues and determining all expenditure for the whole country rested with the Government of India, until the introduction of the Reforms. The manner in which the Government of India had carried out its trusteeship during those 60 years had evoked certain very well-crystallised and well-ventilated points of popular criticism. In fact, it was the strength of that criticism which led to the mooting of the Reforms. The critics alleged: (1) that since the 'eighties of the last century, the Military expenditure of the country had been growing excessively; (2) that vital nation-building departments like education, sanitation, medical relief, rural public works had been woefully starved; that (3) the miserable percentage of literacy, the wide prevalence of malaria, the high death-rate, the very low average expectation of life, the recurrence of famines and pestilences were eloquent testimony of the moral and material conditions of the people; (4) that the land revenue policy of the Government completely ignored the canon of ability to pay; (5) that the liquor excise policy of the Government had led to an alarming spread of the drink evil in town and country alike, and that in a country where both the Hindu and Mussalman masses regarded the taking of liquor as a heinous sin; (6) that the Government would not let even an article of daily necessity like common salt go without a tax burden.

The framers of the Reforms proposals intended to transfer the responsibility for the nation-building services to the Provincial Governments and to make the latter responsible for those services to popular legislatures. They ought therefore to have considered how to enable Provincial Governments to meet criticism of the type noted above by making up past leeway and launching satisfactory programmes for future development. That meant equipping the Province with sufficient funds from expensive sources. The authors of the Joint Report, however, paid no consideration whatever to this aspect of the question. In their financial proposals they allotted customs and income tax to the Central Government and land revenue and liquor excise to the Provincial Government. Thus out of the four most important sources the two most

expensive ones were given to the Central Government, whereas the inexpensive source of land revenue and liquor excise against which public opinion was so very strong were allotted to the Provinces. On the expenditure side, however, defence and service of unproductive debt were the only two expensive items left to the Central Government, whereas the provinces were saddled with responsibility for all those expensive nation-building departments which had been starved for 60 years according to the public opinion. The Meston Committee was appointed merely to fill in the minor details of a scheme of which the framework was more or less rigidly laid down in the above manner by the Montagu-Chelmsford Report itself.

No wonder, then, that the reformed Constitution has been found to be disappointing mainly for financial reasons, in almost all Provinces except Madras, which is temporarily in good funds, and therefore happy. Provincial Governments of the Ryotwari tracts have been persistently harassed by their legislatures on the subjects of land revenue and liquor excise. It is very doubtful if even full provincial autonomy will give better results than the Reformed Constitution has done in the last nine years unless there is a re-distribution of resources between the Central and Provincial Governments more in proportion to their respective needs and more in consonance with public criticism of the vital issues noted above.

The authors of the Joint Report aimed at a Federal Constitution for India on the lines of Australia or the United States. But they did not trouble to inquire how the division of functions and resources took place in these federations and to base their financial proposals on those lines. Had they done so their division of functions would have been the same as now but the allocation of sources would have been quite different, viz., Customs, Excise (including liquor-excise), salt, opium, surplus in Commercial Departments and income-tax on profits of Companies as such (miscalled super-tax on Companies at present) and non-judicial stamps would have been central sources, whereas revenue tax on personal incomes and stamps (at least judicial stamps) would have been the chief Provincial sources. The Central budget under such an allocation of sources would have stood as follows for 1917-18:—

Revenue.	(Rs. Crores).	Expenditure.	(Rs. Crores).
Customs	16·5	Army	46·1
Excise	15·2	Service of unproductive debt	10·9
Salt	8·2		
Opium	4·1		
Railway surplus	14·8		57·0
Posts surplus	1·5		
Tax on companies' profit ...	...		
	60·3		

Thus there would have been no need for Provincial contributions to the Central Government, no inter-provincial jealousies would have arisen, the Provinces would not have been placed on the horns of a dilemma of finding funds for nation-building Departments by making people more addicted to liquor, on the other hand, the Central Government would have had to decrease Military expenditure and put up with decreasing revenue from liquor excise in response to a policy of prohibition.

What was not done in 1919 may, however, be done now. But income-tax revenue has decreased since then and liquor excise has increased, the figures for 1926-27 being 15·64 and 19·41 lakhs respectively. A look at the figures of total income-tax and those of (so-called) super-tax on companies for the last few years shows that the maximum percentage of the latter to the former was 20. Instead of alloting personal income-tax to the Provinces and super-tax on companies to the Central Government, it would be possible and administratively more effective to

allot 20 per cent. of the whole income-tax to the Central and 80 per cent. to the Provincial Governments on the basis of the tax collected within each Province, the machinery of collection being under the control of the Central Government as at present.

If, with this modification, the allocation of sources is made as suggested above the Central Government will gain nearly 7 crores by the exchange of 4/5ths of income-tax for the whole of liquor excise, and, with exception of Bengal, each Provincial Government will lose more by parting with liquor excise than it gained under income-tax. The figures for 1926-27 stand as follows:—

Province.	Income Tax. (Rs. Lakhs.)	Excise (Liquor). (Rs. Lakhs.)
Madras	1·28	5·10
Bombay	3·21	4·09
Bengal	5·69	2·25
United Provinces	·73	1·30
Punjab	·64	1·24
Bihar and Orissa	·53	1·97
Central Provinces	·36	1·36
Total ...	15·64	19·41

It would, therefore, be necessary in the beginning for the Central Government to give subventions to the Provinces to re-imburse them for the loss they sustained by the exchange of liquor excise for 80 per cent. of the income-tax. The yield under income-tax can be substantially increased (1) by lowering the exemption limit from Rs. 2,000 to Rs. 1,000, (2) by taking agricultural incomes, (3) by adopting steeper graduation of tax for incomes between 10,000 and 50,000. The Provinces would thus be gainers by adopting all possible means to stimulate the growth of agricultural, industrial, commercial and professional incomes of persons residing within their borders. The Central Government will be left to adopt the same policy in the matter of liquor excise that it has had to adopt in the matter of opium. The possibility of drastically reducing Military expenditure is apparent from the following:—

		1913–14.	1927–28.	Increase %
India	(Rs. Crores)	31·5	56·7	80%
Britain	(£ Mil.)	74·5	115·1	55%

The rise of prices has been about the same in both the countries. It is obviously absurd to suggest that the responsibility of India in matters of defence have increased much more than those of Britain herself as result of the last European War. It must also be noted that the Indian Expenditure of defence in 1913-14 was regarded as extravagant by responsible men like late Mr. Gokhale.

The re-distribution of sources proposed above is therefore quite feasible apart from its being theoretically sound. It has the special merit of making Provincial revenues depend on the incomes of persons resident therein, an obviously expansive source provided the right economic policy is followed both by the central and provincial Governments, the former of which stands to get 20 per cent. of the income-tax collected. The financial aspect of the problem before the country is in a sense even more important than the constitutional one as the experience of the present reforms has shown. No scheme of financial relation between the Central and Provincial Governments is likely to be perfect, and we have to choose what will appear to be the least objectionable from all points of view. And it may be emphasised here that a return to centralisation of financial powers suggested in certain quarters will mean the negation of advancement and the undoing of constitutional progress.

The re-distribution of financial resources proposed above, is particularly essential in the interest of an industrial province like Bombay, which

came to be most unfairly treated under the Meston arrangements. Compared to what have been described as true " Agricultural Provinces " Bombay was a serious loser, having had to abandon the growing sources of revenue and while the abolition of provincial contributions has benefited former considerably the finances of the Bombay Presidency remain in a straitened condition. This injustice must in any event be remedied and Bombay, which had contributed so much to the commercial and industrial development of India, must be enabled to play its proper part in national development efficiently.

I am firmly convinced that no change in the administrative machinery or in the constitution which has been recommended on the ground of securing proper responsibility between the Ministers and the Councils and the people at large will be of any avail without financial readjustment. The experience in the past confirms me in my opinion that there is a great danger of the failure of the new constitution if adequate funds are not provided. It is possible there may arise difficulties in working up the new constitution due to extraneous causes and I am not prepared to face the possibility of a charge that the failure of the working is due either to inability of the Indians or the inherent defects of a fully responsible system of Government.

Territorial Redistribution.

I am at one with the Committee in refusing to endorse the proposal for separating Sind from the Bombay Presidency and creating it into an independent Province. The demand from Karnatak, however, deserves more sympathetic consideration.

I am in full sympathy with the Karnatak people in the matter of the unification of Kanarese-speaking areas. But this depends more or less on the re-distribution on linguistic basis of all the provinces in India. A separate Committee will have to be appointed to investigate into this question on financial, educational, and many other considerations. I think the linguistic principle should be adhered to in the formation in this Presidency of divisions—Sind, Gujarath, and Karnatak should be the respective divisions while Maharashtra or Marathi-speaking area, which will consist of eleven Districts including the Thana and Bombay Suburban Districts, should be arranged into two divisions. The Konkan Districts of Ratnagiri and Kolaba should be in one division.

Other matters.

While I support the Majority recommendation for the creation of a Public Services Commission I cannot lend my support to the recommendation that provision be made " for adequately safeguarding the interests of the backward classes " if by this is meant that a certain proportion of posts should be earmarked for them. Communal representation shows its worst effect when introduced into the services. I am altogether in favour of " safeguarding the interests of the backward classes," but in my judgment these interests are best protected not by making the entry of backward classes more facile than that of others or by guaranteeing a number of posts for them but by giving them special facilities for making rapid progress in education, thus remedying their backwardness and removing the very cause for the demand of special facilities in the services. I would therefore favour granting these communities all the facilities and privileges which it is within our power to give but in the filling of posts merit must be the sole consideration without regard to class or creed. If these classes take some time in having a proportionate number of their representatives in the services, it is a sacrifice which is entailed upon them by the inexorable demands of efficiency.

The Majority of the Committee, while seeking to right the long standing abuse of the combination of judicial and executive functions at the lower end, allows it to continue at the upper. I cannot see why this

abuse should be allowed to continue anywhere. The committee itself gives no reason. I can therefore only say that I do not agree with its conclusions.

Central Government.

I agree with the Majority of the Committee when they say:—" We consider that in the present condition of India a strong Central Government is absolutely essential if the various provinces of India, which differ so much from each other in race, in language, and to some extent in religion, are to be prevented from drifting apart. In our view the Central Government of India should always be of the Unitary, not of the federal type." I agree further that " the existence of an irremovable executive, neither chosen from nor in the legal sense responsible to the legislature, faced by a legislature in which the Government is in a permanent minority, has resulted in the weakening of the executive and has produced a sense of irresponsibility in the legislature." It is therefore essential, as the majority say, " that the position of the Government of India as against the Central Legislature should be strengthened." I agree that the only method, open to us in the circumstances, of strengthening the Government of India is to end the present divorce of power from responsibility by inviting those who wield the power to shoulder the responsibility. In other words some, at any rate, of the departments of Government, now administered by an irremovable executive, must be transferred to the control of " Ministers chosen from the majority party or parties in the Legislative Assembly." I entirely share the confidence of the majority " that the introduction of a measure of dyarchy in the Central Government will result in a sense of greater responsibility in the members of the Legislature and greater co-operation between the legislature and the Executive than has existed in the past." The general line of policy being thus entirely approved, I differ from the Majority only as to the extent to which the policy, to be successful, must be carried. The majority, it would appear, are in favour of transferring Education Public Health and Agriculture alone to popular control in the Central Government. These of course are Departments of the very greatest importance, but their work is mostly done in the Provinces, the Central Government concerning itself mostly with co-ordinating their activities, etc. As administered therefore by the Central Government, these Departments are of very small account, and their transfer to the Ministers will do exceedingly little to imbue the members of the Legislature with a sense of responsibility which is the object of introducing dyarchy. To transfer merely these departments is to retain the essence of all power in the hands of an irremovable executive and just to make an appearance of sharing power with people's representatives. This will not appreciably reduce " the sense of irresponsibility in the legislature " which it is desired to remedy. This can be done only by transferring to the control of the Legislature Departments of real importance, of which the administration will bring either greater happiness or greater misery to the people. If the Departments are ill administered, involving the people in misery, the people will see to it that the Ministers concerned do not come back to power. It is, therefore, of the first importance that the dyarchy to be introduced should be cast into a large mould.

The net result of the Majority's recommendations both in the provincial and the central spheres would be this. In the former sphere Land Revenue would be transferred, but over against this must be set the proposed second Chamber which will operate as a check not only on the administration of this new Department proposed to be transferred, but over all. And in the latter sphere three departments of little consequence will be transferred. This will be a very poor outcome to the momentous investigations which have been on foot for all this time. One thing is certain, that it will not produce the least impression on the country. I would therefore recommend, as I have done before, the introduction of

responsibility in the whole of provincial field, and in the whole field of internal civil administration at the centre; that is, all Departments except Defence and Political and Foreign Departments should be transferred in the Central Government. This is no doubt a large measure and almost a venture in faith. But statesmanship requires that this venture be made. It is only such a bold step that will kill non-co-operation and revive people's faith in co-operation. It is only British Statesmanship which is capable of taking such a step. I only hope that it will rise to the occasion and will save INDIA to the EMPIRE.

G. N. MUJUMDAR,
Member, Bombay Provincial Committee.

Poona City, 29th April, 1929.

APPENDIX D.

REPORT by Dr. B. R. AMBEDKAR, M.A., Ph.D., D.Sc., Barrister-at-Law, M.L.C., Member of the Committee appointed by the Bombay Legislative Council to co-operate with the Statutory Commission containing his views and recommendations regarding changes that should be made in the constitution of the Government of the Bombay Presidency.

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PREFACE.

I regret that I have not been able to agree in the tenor of the report prepared by my colleagues on the Committee or to accept the more important of the conclusions on the matters falling within the scope of our inquiry. I have therefore submitted this separate report containing my own views and recommendations. The bulk of my report has exceeded that of my colleagues. It might perhaps have been possible, by including in my report nothing more than formal answers to the questions raised, to limit its bulk. But I felt that there was hardly a question to which an answer could be given without some general explanation of the principles on which the answer was based or else the report could not be properly understood. I have therefore set aside all considerations of brevity which would have exposed me to the criticism that the recommendations in the report were not supported by a sufficient amount of reasons and arguments and have allowed the report to grow to the size it has reached.

SECTION I.

REDISTRIBUTION OF THE AREA OF THE PROVINCE.

1. The area of the Bombay Presidency which extends over 1,223,541 square miles may be divided into four distinct linguistic divisions: (1) Maharashtra, (2) Gujerat, (3) Karnatak and (4) Sindh. The people of these divisions have been associated together under one administration for a long period. Gujerat, Maharashtra and Karnatak have been parts of the Bombay Presidency for last 110 years, while Sindh was joined to the Presidency 85 years ago. From this Confederacy, Karnatak and Sindh are now demanding that they be separated from the Presidency. The argument urged in favour of separation states that the Province does not represent a natural unit; that not only it does not meet the test of unity of race or language but that it is actually built up by a deliberate fragmentation of homogeneous groups and their amalgamation with other heterogeneous groups. This, it is said, is an evil. For it is urged that the fragmentation involves a smothering of their distinctive cultures, while their amalgamation with other bigger groups makes them politically helpless.

2. In the case of Karnatak this argument has no doubt some force. That Karnatak has been dismembered into various small parts which have been linked up with other non-Karnatak areas for administrative purposes thereby causing a severence is true. Nor can it be gainsaid that the part united with the Presidency of Bombay has politically suffered by being under-represented in the Bombay Legislative Council. Notwithstanding all this, I am opposed to the separation of Karnatak from the Bombay Presidency. The principle of one language one province is too large to be given effect to in practice. The number of provinces that will have to be carved out if the principle is to be carried to its logical conclusion shows in my opinion its unworkability. Nor can it be made workable by confining it to cases " where the language is a distinct cultural language with a past and a future " and " where there exists a strong linguistic consciousness." For the simple reason that every language which has a past if given an opportunity will have a future and every linguistic group of people if they are vested with the powers of government will acquire linguistic consciousness. I am aware that this may involve the sacrifice of Kanarese culture although I am not sure that that would be an inevitable consequence of the continuance of the present arrangement. But even if that be the consequence I do not think it is a matter for regret. For, I am of opinion that the most vital need of the day is to create among the mass of the people the sense of a common nationality the feeling not that they are Indians

first and Hindus, Mohamedans or Sindhis and Kanarese afterwards but that they are Indians first and Indians last. If that be the ideal then it follows that nothing should be done which will harden local patriotism and group consciousness. The present heterogeneous character of the province has this much in its favour that it provides a common cycle of participation for a polyglot people which must go a great deal to prevent the growth of this separatist feeling. I think that an arrangement which results in such an advantage should be conserved. I am therefore opposed to the demand of Karnatak for separation.

3. My colleagues has summarily dismissed the claim of Karnatic for separation on the ground that no witness appeared before the conference to support the same. I do not regret it in view of the fact that I and my colleagues agree in our recommendation regarding it. But it is a surprise to me that my colleagues should have in the case of Sindh come to a different conclusion. For I think that as compared to Karanatak Sindh has no case. There can be no two opinions regarding the fact that Sindh has gained substantially by its incorporation in the Bombay Presidency. Having been separated by long distance, Sindh instead of being made a subordinate member of the household has been accorded the superior status of a neighbour associated with on the most honourable terms. In so far as her affairs have been administered by a Commissioner who is next to the Governor, Sindh must be said to have preserved the dignity of her independence. She has been allowed to retain her ancient and customary code of laws. Seldom has she been subjected to any new law passed for the Presidency proper unless the same was deemed to be specially conducive to her benefit. Her tribunals are entirely independent of the tribunals of the Presidency. Her public service is virtually separate from the Presidency public service and is manned by her own people. Her being linked to the Presidency cannot be said to have worked to her financial detriment. On the contrary she has been able to ride on the broad shoulders of the Presidency at a speed which would have been beyond her own capacity. It is her incorporation which has enabled her to draw so largely upon the great resources of this Presidency. Nor can Sindh be said to have failed to secure the consideration and attention from the Government which is due to it. Indeed since the introduction of the Reforms Sindh has exercised an influence on the Government of Bombay out of all proportion to its magnitude. Given these facts it is difficult to understand what more is to be gained by separation when Sindh has all the advantages of separation without the disadvantages of incorporation.

4. It is also evident that all the communities of Sindh have not joined in making this demand. The evidence such as was placed before the joint Conference of the Commission and the Committee disclosed a sharp cleavage between the Moslems and the Hindus of Sindh, the former favouring separation and the latter arraying themselves in opposition to it. On an examination of the history of Sindh public opinion regarding this question I find that the politically minded people of Sindh as a body took up the question of the status of Sindh only in 1917. After the announcement of August, 1917, the Sindis held a special conference in November, 1917, to consider the place of Sindh in the coming Scheme of reforms. The Honourable Mr. G. M. Bhurgri, the leading Mohamedan citizen of Sindh, was the chairman of the Reception Committee, while the President of the Conference was a Hindu gentleman, Mr. Harchandrai Vishindas. The Conference had before it four alternatives namely (1) Formation of Sindh as a separate Province, (2) Sindh and Baluchistan to form one province, (3) Sindh to go with the Punjab and (4) Sindh to remain with Bombay. It is noteworthy that this special Conference turned down three of these four alternatives including the proposal to form Sindh into a separate province. Not only did the

Conference reject the proposal of a separate province but in its resolution supported by Hindus and Mohamedans urged for a closer incorporation between Sindh and the Presidency by reducing the position of the Commissioner of Sindh to that of the Divisional Commissioner in the Presidency. The deputation consisting of Hindus and Muslims, which waited upon the Secretary of State, Mr. Montagu, and the Viceroy, Lord Reading, was, it is said, emphatic in its declaration that Sindh did not wish to be a separate Province. The same attitude towards this question was uniformly maintained by members of both the communities at subsequent sessions of the Conference which met in 1918, 1919 and 1920. Since 1920 the question has not been considered by the Conference owing to its being swayed by the movement of non-co-operation. From this survey it is clear that it is the Mohamedans who have changed front and it is they who have departed from an agreed point of view and that the demand far from being a united demand is a sectional demand originating from the Mohamedan Community only.

5. Before any sympathy can be shown to such a sectional demand, one must be satisfied that the purpose for which separation is sought is a proper one. Now although, the Mohamedan deputation which put forth this demand and the Hindu deputation which opposed it, both did their best not to reveal the real object of the demand and the real objection to its fulfilment. All the same those who knew the reality, must have felt that the contending factions had not placed all their cards on the table. But this purpose must be made clear so that it may be considered on its own merits and I propose to do so to the best of my information. On the 20th of March, 1927, there were put forth what are known as the "Delhi Muslim Proposals," by prominent members of the Muslim Community as the terms for an *entente cordiale* between Hindus and Muslims. According to these proposals it was demanded (1) that Sindh should be made into a separate Province, (2) that the North-West Frontier Province should be treated on the same footing as other provinces and (3) that in the Punjab and Bengal the proportion of Muslim representation should be in accordance with their population. A glance at the above proposals is sufficient to indicate that the object of the scheme is to carve out as many Provinces with a Mohamedan majority as possible out of the existing arrangement. At present Punjab and Bengal are two Provinces with a bare Muslim majority. The proposals by demanding that in those provinces representation should be proportionate to population seeks to make the communal majority of the Muslims a political majority so that a Mohamedan Government will be assured in those provinces. Baluchistan and N.-W. F. Province have an overwhelming Muslim majority. But they are as yet out of the pale of responsible government with the result that the Mohamedan majority is not a ruling majority. The aim of the proposals is to rectify this anomaly so that they will make four Provinces with a Muslim majority with sure chances of forming a Muslim Government. The demand for the formation of Sindh which is predominently Muslim in numbers into a separate Province is to add a fifth to the list of Muslim provinces contemplated by the scheme. Now what is the purpose behind the formation of these Mohamedan Provinces? In the eyes of the Mohamedans themselves it has the same purpose as communal electorates. For the authors of the scheme say that they are prepared to give up communal electorates and agree to joint electorates in all provincial legislatures and in the Central Legislature provided their proposal of Mohamedan provinces was agreed to. By parity of reasoning it follows that the object of carving out Mohamedan Provinces is to protect the Muslim minorities; since that was the object of communal electorates. The scheme on the surface does not show how the creation of Muslim Provinces is going to protect the Muslim minorities against Hindu majorities in Provinces in which the Hindus predominate.

Indeed the scheme seems to weaken the position of the Muslim minorities by taking away the protection they receive or believed to receive from communal electorates. But if we probe into it we can see that the scheme is neither so innocent nor so bootless as it appears on the surface. At bottom it is an ingenious contrivance for the protection of Muslim minorities. For if the Hindu majority tyrannized the Muslim minority in the Hindu Provinces the scheme provides a remedy whereby the Mohamedan majorities get a field to tyrannize the Hindu minorities in the five Mohamedan provinces. It is a system of protection by counterblast against blast; terror against terror and eventually tyranny against tyranny. That is the purpose behind the whole scheme and also behind the demand for the separation of Sindh. Lest there should be any doubt on this point I wish to remove it by directing attention to the Report of the Nehru Committee in which they say: "we agree that the Muslim demand for the separation of Sindh was not put forward in the happiest way. It was based on communalism and tacked on irrelevantly to certain other matters with which it had no concern whatever." That the Nehru Committee should have fought shy of disclosing the real grounds of separation is a circumstance which raises the presumption that the purpose as known to the Committee must have been otherwise than laudable. But if we are to consent to it, it is better to know the worst about it. I will therefore raise the curtain and let Maulana Abdul Kalam Azad reveal the same. Addressing the Muslim League at its recent session at Calcutta in a speech which must be admired for its terseness and clarity he said—"That by the Lucknow pact they had sold away their interests. The Delhi proposals of last March opened a door for the first time to the recognition of the real rights of the Musalmans in India. Separate electorates by the pact of 1917 only ensured them Muslim representation, but what was vital for the existence of the community was the recognition of its numerical strength. Delhi opened the way to the creation of such a state of affairs as would guarantee to them in the future of India a proper share. Their existing small majority in Bengal and in the Punjab was only the census figure but the Delhi proposals gave them for the first time five provinces of which no less than three (Sind, N.-W. F. and Baluchistan) contained a real overwhelming majority. If Muslims did not recognise this great step they were not fit to live (applause). There would be now nine Hindu Provinces against five Muslim Provinces and whatever treatment Hindus accorded in nine provinces Muslims would accord same treatment to Hindus in the five provinces. Was not this a great gain? Was not a new weapon gained for the assertion of Muslim rights?" (*Hindustan Times*, 3rd January, 1928). No one who is not interested in misunderstanding the plain meaning of simple English can mistake the real purpose of the demand for the separation of Sind. It is obvious that the real purpose has very little to do with the destiny of Sind. It is part of a larger scheme designed for the protection of Muslim minorities and is based upon the principle that the best way of keeping peace is to be prepared for war.

6. Knowing the real purpose of the demand the question is should it be sympathised with? I, for one, am unable to sympathise with it and no person I venture to say who has at heart the interests of good administration will consent to it. It will no doubt be said as is done by the Nehru Committee which has expressed itself in favour of separation that "the manner of putting it forward does not necessarily weaken the merits of a proposal." I take exception to this position. I hold that the manner discloses the motive and that motive, far from being a small matter, is important enough to change the face of the situation. For it cannot be gainsaid that the main force which sets an institution in motion and also fixes its direction centres round the motive which brings the institution into being. The motive that lies behind this scheme is undoubtedly a dreadful one involving the

maintenance of justice and peace by retaliation and providing an opportunity for the punishment of an innocent minority, Hindu in Mohamedan provinces and Mohamedan in Hindu provinces, for the sins of their co-religionists in other provinces. A system must stand self-condemned which permits minorities to be treated in their own provinces as hostages rather than as citizens, whose rights are subject to forfeiture, not for any bad behaviour chargeable to them but as a corrective for the bad behaviour of their kindred elsewhere. And who can say that the grievance leading to such a forfeiture will always be just and substantial? As often as not, a grievance is one at which one merely feels aggrieved so that any act be it great or trivial against a minority may be made to serve as a *causus belli* for a war between the Provinces. The consequences of such a scheme are too frightful to be contemplated with equanimity. That the Hindus get the same chance to tyrannize the Moslems in Hindu Provinces does not alter for the better the character of the scheme which contains within itself the seeds of discord and disruption. The scheme is so shocking that if the Mohamedans cannot feel secure without it I for one would prefer that Swaraj be deferred till mutual trust has assured them that they can do without it. The Nehru Committee argues that "a long succession of events in history is responsible for the distribution of the population of India as it is to-day"—and that in creating communal provinces "we have merely to recognize facts as they are." This is no doubt true. But the point remains whether we should create such admittedly communal provinces at a time when the communal feeling is running at full tide and the national feeling is running at its lowest ebb. There would be time for creating such provinces when the Hindus and Mohamedans have outgrown their communal consciousness and have come to feel that they are Indians first and Indians last. At any rate this question should wait till both have come to feel that they are Indians first and Hindus and Mohamedans afterwards. On these grounds I dissociate myself from the sympathy shown by my colleagues towards the question of the separation of Sindh.

7. It will be noticed that I say nothing about the financial difficulties that lie in the way of separating Sindh from the Presidency. That is not because I do not attach importance to them. I do. But my view is that they alone cannot be decisive and if I have not alluded to them it is because I hold that the objections which I have raised to the separation of Sindh will survive, even when the financial objections are met or withdrawn.

SECTION II.

PROVINCIAL EXECUTIVE.

Chapter 1.

Dual versus Unified Government.

8. My colleagues have recommended that the subject of Law and order should be continued as a reserved subject for five years after the new regime has come into operation. I would not have cared to differ from my colleagues if their recommendation had involved nothing more than a short period of waiting to allow the Council an opportunity of settling down to its work. But unfortunately their recommendation involves more than this and is accompanied by a proviso that "after that period it should be left to the decision of the Legislative Council with the concurrence of the Upper House and of the Governor to decide that the subject should be transferred." I am unable to agree to this recommendation which means the continuance of dyarchy for an indefinite period. Such a recommendation cannot be supported except on the assumption that Dyarchy is a workable system of Government and that as it has been successfully worked in the past it can

be expected to work in future. This assumption is in my opinion quite untenable.

9. Many things have been pointed out as being responsible for the unsatisfactory working of dyarchy as a form of Government. It is true that the Transferred Side of the Government was hampered by certain checks which were introduced by way of safeguards. The subjects transferred to the control of the ministers all related to the well being of the people, as distinguished from subjects relating to the maintenance of law and order. Indeed the subjects were transferred largely because they were of that character. As a matter of policy, therefore, the finances of the Presidency should have been in the hands of a minister. For it is obvious that no policy has any chance of reaching fruition unless the Finance Department found the ways and means required for the same. This could be expected of the Finance Department only if it belonged to the Ministerial side of the Government. But it did not. Section 45A (3) provided for the constitution by rules under the Act of a finance department and for the regulation of the functions of that department. The department as constituted is neither a Transferred nor a Reserved one but was common to both sides of the Government. Yet as rule 36 (1) of the Devolution rules laid down that the Finance Department should be controlled by a member of the Executive Council, that department was virtually converted into a Reserved department. Having been placed into the hands of the Executive Councillor, not responsible to the legislature, it is only natural that the department should be on the Reserved side and the head of the department more or less identified with the work of the reserved departments to the disadvantage of the Ministers. The position assigned to the Governor in relation to the Transferred subjects was another factor which worked to the detriment of the transferred side of the Government. Under Section 52 (3) it was laid down that in relation to the transferred subjects the Governor shall be guided by the advice of his ministers, unless he sees sufficient reason to dissent from their opinion. But the common complaint has been that the Governors instead of reducing their interference to exceptional occasions of fundamental difference claimed that in law the ministers were merely their advisers and they were free to reject their advice if they thought fit to do so. This perverse interpretation made the position of the ministers worse that the position of the Executive Councillors. For, the Executive Councillors could not be overruled in ordinary cases except by a majority of votes. While under the interpretation put by the Governors upon Section 52 (3) Ministers were at the mercy of the Governor and were without the protection enjoyed by the Executive Councillors. There was another thing which also helped the aggrandizement of the powers of the Governors as against the ministers and which tended to cripple the activity of the latter. The Instrument of Instructions issued to the Governor charged him to safeguard the interests of all members of the services employed in the Presidency in the legitimate exercise of their function and in the enjoyment of all their recognised rights and privileges. The duty was confined only to the question of the safeguarding of the interests of the services. But the Governors placed a wider interpretation on this instruction and insisted that all matters relating to the services including the question of their appointments, posting and promotions in the Minister's department should be under the charge of the Governors. In Bombay the Governor claimed this right even with regard to the services functioning under the Executive Councillors and to make it known that the Governor has this power, the ordinary form " the Governor in Council is pleased to appoint " was changed to " Governor is pleased to appoint ". The position assigned to the Secretary of a ministerial department also helped to weaken the authority of the minister and to increase the autocracy of the Governor. For, in all cases, where the Secretary differed from

the decision of the ministers, he was permitted to approach the Governor over the head of his political chief and get his decision altered by the fiat of the Governor.

10. All this undoubtedly had an adverse effect on the satisfactory working of dyarchy. But what I wish to guard against is the inference often drawn that in the absence of these factors dyarchy could have been been a workable system of Government. For I maintain that dyarchy is in itself an unworkable system of Government. Fortunately for me I am not alone in holding this opinion. The Government of Bombay, some members of which individually support the continuance of the system of dyarchy, has itself condemned it in 1919, as an unworkable system in words which are worth quoting: "A reference to the records of Government will show that there is scarcely a question of importance which comes up for discussion and settlement in any of the departments of Government which does not require to be weighed carefully in the light of considerations which form the province of another department of Government. The primary duty of the Government as a whole is to preserve peace and order, to protect the weak against the strong, and to see that in the disposal of all questions coming before them the conflicting interests of the many different classes affected receive due attention. And it follows from this that practically all proposals of importance put forward by the Minister in charge of any of the departments suggested for transfer . . . will involve a reference to the authorities in charge of the reserved departments . . . there are few, if any, subjects on which they (the functions of the two portions of the Government) do not overlap. Consequently the theory that, in case of a transferred subject in charge of a Minister, it will be possible to dispose it off without reference to departments of Governments concerned with the control of reserved subjects is largely without foundation."

11. The dualism due to division of subjects is but one of the inherent defects which makes dyarchy unworkable. There is also another. Under it it is not possible for the Executive to act as a unified body with a common policy. Such a unity can be secured only by a common allegiance arising out of a common mandate. Ministers who are appointed from the legislature are bound to feel a real obligation towards that body: that indeed is the reason why they are appointed and they would not serve their intended purpose unless they felt such obligation. But every link that binds them to the legislature works only to separate them from their official colleagues with the result that the dualism inherent in dyarchy tends to come to the surface. Once this dualism has established itself between the two halves of government—and the many instances in which Ministers and Executive Councillors have opposed each other by speech and vote in open Council prove its possibility—government must become impossible. This dualism in dyarchy is kept in check by a coalition. But this coalition is a forced and artificial union between two parties with totally different mandates and can easily lead to an impasse. That such an impasse has not occurred in the Bombay Presidency does not negative this inherent defect in dyarchy. It only throws in clear relief that in this coalition the ministers had surrendered themselves to the Councillors.

12. Nothwithstanding these inherent defects there are people who hold that dyarchy has been successfully worked in this Presidency. That view can be agreed to only if it means that the Governor was not obliged to suspend the constitution or to bring into operation the emergency powers given to him by the Government of India Act. This is true. But the question is not whether dyarchy worked. The question is whether it worked as a responsible form of Government. For it must not be overlooked that in 1919 there were many other alternative forms of Government competing with dyarchy for acceptance. There was the Congress League Scheme and there was the

Scheme by heads of the Provinces, to mention no others. But all these schemes were rejected in preference to dyarchy because they failed to satisfy the tests of responsible government. Any estimate of the working of the dyarchical system of Government must therefore be based upon that supreme consideration alone. If we bear this fact in mind and then attempt to evaluate the working of dyarchy, the conclusion that in this province dyarchy has been a failure is beyond dispute. Responsible government means, that the Executive continues to be in office only so long as it commands a majority in the House. That is the essence of the doctrine of ministerial responsibility. Now if we apply this test to the working of dyarchy in the Bombay Presidency and take into account the occasions on which the Council divided on motions relating to the transferred subjects, we find a most unedifying spectacle that the ministers have been defeated time and again on the floor of the House and yet they have continued in office as though nothing had happened. This lamentable tale is told by the following table:—

Year.	Total No. of divisions.	No. of divisions in which Govt. were neutral.	No. of Govt. defeats.	No. of Govt. defeats if official block is eliminated.	No. of Govt. successes.	No. of ties.
1921 ...	3	—	2	2	1	—
1922 ...	17	—	4	8	9	—
1923 ...	4	1	1	2	1	—
1924 ...	19	—	10	14	5	1
1925 ...	30	1	—	11	18	—
1926 ...	3	—	—	1	2	1
1927 ...	26	—	3	10	16	—
1928 ...	2	—	1	1	1	—

These figures show that in 1921 out of three divisions the ministers were defeated on two; in 1922 out of 17 on 8; in 1924 out of 19 on 14; in 1925 out of 30 on 11; in 1926 out of 3 on one; in 1927 out of 26 on 10; in 1928 out of two on one. Notwithstanding this there has never been a case in this Presidency of a minister having resigned. With these facts before us it is impossible to agree to any conclusion which implies that dyarchy has worked as a responsible system of Government.

13. It is of course open to argument that if the ministers did not resign it is because the Council did not intend by these divisions to indicate want of confidence; otherwise it would have refused supplies to the ministers whom it had discredited by its adverse vote. That the Bombay Legislative Council was too effete to impose its will effectively upon the ministers is a fact too well known to need mention. Its division into cliques and factions, its vicious way of following men rather than principles, made it a toy in the hands of the executive, so much so, that the House as a whole failed to exercise even the selective function which any popular House conscious of its power is expected to fulfil. Any popular House, howsoever dominated by the executive, will not tolerate the candidature of any member of the House for office unless he shows that he has some power of speech, some dexterity in the handling of a subject, some readiness of reply and above all some definite vision which can constitute the basis of a rational policy of social and economical betterment. Even in England where the dominance of the cabinet is as complete as it could be, no Prime Minister in filling the subordinate offices of Government will choose men who

have not shown themselves acceptable to the House of Commons. The Legislative Council of Bombay was incapable even of this, with the result that the choice for political office did not always fall on the best man available. But supposing that the Council being better organised, had imposed its will more effectively on the executive. What would have been the result? Would it have made dyarchy work as a responsible form of Government? My answer is emphatically in the negative. For, any effective action on the part of the legislature against the Executive can produce only one result, namely, it will lead to the use by the Governor of the emergency powers of suspension and certification, which are entrusted to him under the Act. That this is the inevitable result of strong action on the part of the legislature is the testimony of all provinces where the constitution has been suspended. But to admit this is to admit that the moment the Council begins to assert its power to the fullest extent dyarchy must crumble unless jacked by the emergency powers of the Governor. It is therefore obvious that in either case dyarchy fails. It fails by the inaction of the legislature as in the Bombay Presidency. It fails as much by the action of legislature as in Central Provinces. In the one case by reason of the weakness of the legislature the executive gets the freedom to be irresponsible. In the other case the legislature by force of action compels the Governor to keep into being an irresponsible executive.

14. Many have suggested that dyarchy would have worked better if the Governor had chosen to conduct himself as a constitutional head in accordance with the provisions of Section 52 (3) and the advice given by the Joint Parliamentary Committee. I do not share this view. First of all there is no foundation of facts to support the contention that the Governor was bound to act as a constitutional head. It is often forgotten that though the dyarchical form of government was selected as being a responsible form of government implying that the Governor in relation to the ministers was to be a constitutional head, yet the Joint Report made it quite clear that he was not to be reduced to that position. They expressly stated "We do not contemplate that from the outset the governor should occupy the position of a purely constitutional governor who is bound to accept the decision of his ministers. We reserve to him the power of control because we regard him as generally responsible for his administration". Nor did the Joint Parliamentary Committee recommend that he should work as a constitutional governor. The Committee distinctly stated in paragraph 5 of their Report that the Ministers will be assisted and guided by the governor who will accept their advice and promote their policy *whenever possible.* This is far from saying that the Committee intended him to function as a constitutional head. Indeed such an intention would be inconsistent with the provisions of the Act under which the governor's dictatorial powers were expressly reserved and nothing that is said in the Joint Report or in the Report of the Parliamentary Committee nullifies their use; so that if the governor has himself governed and has not allowed the ministers to govern through him it is no fault of his. But granting that the governor should have acted as a constitutional head, the question again is, would it have made dyarchy workable as responsible form of government? My answer to this question is also in the negative. For, as I see the situation, if you take away the power of the Governor and make him a constitutional head, you thereby expose the existence of the reserved side of the Government to an attack from a popularly elected chamber. From this peril the reserved side deprived of the protection of the Governor has only one escape and that is to consent to be ruled by the wishes of the Council. In other words, if you remove them from the lap of the governor, you have no other alternative except to place them on the same footing as the transferred side. But this is only another way of stating that if the desire is to

reduce the position of the Governor to that of a constitutional head you must first put an end to dyarchy.

15. So far I have argued against the view that dyarchy is not a system which is made unworkable by certain other factors and in support of the view that owing to its inherent defects, it is not only unworkable but it is incapable of being worked as a responsible form of a government. Of course dyarchy with complete dualism involving the functioning of two separate governments and two separate legislatures, in one the legislature is subordinate to the executive, and in the other the executive is subordinate to the legislature, is free from the criticism which has been urged above against the system of dyarchy-with-dualism such as is in operation. But the alternative of dyarchy with dualism was rejected by the Government of India in 1919 and is open to the same objections which apply to the system of government that was established by the Morley-Minto Reforms and which have never been so forcibly voiced as in the Montagu-Chelmsford Report. A return to such a system at this stage in the evolution of political life in India is unthinkable and I therefore refrain from saying anything on a possible recourse to such a system. The only alternative left is to discontinue dyarchy and transfer all subjects to the control of the ministers.

16. So far the general grounds of my opposition to the recommendations of my colleagues who have given their sanction to the continuance of dyarchy have been stated. I now proceed to state my grounds of objection to the continued reservation of the particular subject, namely law and order. The principal reason urged against the transfer of law and order to the charge of a minister is that being subject to the wishes of the electorates and being removable by an adverse vote of the Council the minister will not be able to administer the department impartially. The inevitable consequence of such a situation, it is feared, will be that the services working in the administration of that department will be placed in a false position. Never knowing when they will be supported and when they will be censured, the uncertainty will paralyse their action to the grave detriment of peace and good government. It is further urged that in view of the series of Hindu-Moslem riots which have, of late, become so very common we ought not to transfer law and order to the control of a minister who is subject to the vagaries of public opinion and who is likely to be swayed by communal prejudices, Hindu or Moslem.

17. To be frank this argument has produced no effect upon me although my colleagues seem to have been considerably impressed by it. It is one of the stock arguments of bureaucracy. To admit its force is to accept that bureaucratic government is the best form of government. Unfortunately bureaucratic government has been known to India too long for anybody to be deceived by any such argument. It is so extravagant that its acceptance would involve the negation of all responsible government. Whatever its antecedents, responsible government, it must be recognised, has come to stay in India. Any change time can bring along with it must be in the direction of expansion of the principle. Any plan therefore which hinders the broadening of this basic principle must create a serious conflict between the Government and the people. Nor does it appear to me that there exists any ground why we should needlessly give rise to such a conflict by acting upon the bureaucratic argument. For, in my opinion, the fear that the ministers will succumb to the clamour of their followers in the house or that their followers will be malevolent in their attitude is not backed by experience and in so far as it is, it does them a great injustice. The suspension of the Local Boards and Municipalities which had been captured by the non-co-operators in 1922 at a time when Mr. Gandhi was in the plenitude of his power gives us hope to say that ministers can be trusted to act independently of the wishes of the electorates

when such an action is demanded of them. Members of Government will I am sure testify that the Bombay Legislative Council has invariably acted with the necessary restraint which consciousness of responsibility always brings with it. But even if one is compelled to admit that the House may not keep itself unruffled on occasions of communal feeling and communal clash this is no argument against transfer. For, one may point out in reply that no community whatever its attitude towards another has any vested interest in disorder such as will induce its accredited representatives to be so irresponsible as to lead them to work against peace and goodwill. The fear therefore which operates on the mind of those who support the reservation of law and order is merely the fear of the unseen, unknown and the untried. My colleagues in not recommending the transfer are no doubt adopting a most cautious course. But I am not certain that they are thereby following the wisest course. For, there is such a thing as too much caution which prohibits the liberty to make an experiment which the wisest course must demand in order to find out whether or not the fear is real. The very same fear of the unknown which is now urged against the transfer of law and order was urged in 1919 against the transfer of the subjects now entrusted to the control of the ministers. But they were all brushed aside by the Secretary of State and the Government of India who both consented to take the leap in the dark. I prefer to adopt the same course with respect to law and order.

18. But there is another reason why if we are to make the experiment it is wise that we should make it without delay. It is obvious that the transfer of a subject brings in its wake an increase in the number of Indians employed in the services. It is possible that the Indians might be less efficient, at any rate, less experienced than the European members of the staff. To postpone the transfer of law and order is therefore to increase the dangers incident upon every transitional stage. Consequently, it is much the safest to take the step at once and emerge through that stage while the experienced trained civil servants, who could be relied upon to loyally assist in working the new constitution with as little dislocation as possible, are still with us. Fortunately for me this suggestion comes from a very important authority, in fact it comes from an experienced civil servant, who supplied his views in a note to Mr. Barker who has reproduced the same in his book on the "*Future of Government of India and the I.C.S.*"

"I propose to state," says Mr. Barker, "the lines of such criticism, as it is advanced in a Note written by an experienced civil servant. . . . . In the first place it is urged by the author of the Note that the maintenance of law and order, and matters concerned with land revenue and tenancy rights, ought to be transferred." "These departments," he urges, "are administered under Government by the strongest and most able branch of all the services in India—the Indian Civil Service. The principles of their administration have long been laid down, and are well understood. The Service has great tradition behind it which will ensure that that administration will get the best assistance and most outspoken advice. . . . . It is admitted that the people of India are quiet and easily governed people, though occasionally liable to excitement over things affecting their caste or religion. The task of maintaining law and order is not therefore a very difficult one . . . . . the argument that land revenue and tenancy questions affect the interest of the masses rather than of the classes who will be represented in the Legislature (and therefore, on the fifth of the canons mentioned above, should not be transferred) is absolutely inconsistent with the franchise and electorate scheme which has been put forward for the Provinces. . . . . The convinced advocate of the compartmental system who is afraid to transfer some at any rate of the departments concerned with law and order and with revenue administration admits that he is afraid of his own scheme.

I, though I am not an advocate of dyarchy, should not be afraid to make the experiment, because I should hope to find among the Ministers that common sense, goodwill, and forbearance which are essential to the success of any scheme, dyarchical or not."

19. I quite realise the anxiety of the minorities in respect of the transfer of law and order. But it is somewhat difficult to understand how they expect to gain by its reservation. There will be no difference between a bureaucrat in charge of law and order and a minister from the standpoint of personal bias if the bureaucrat is to be an Indian. If he is to be a European, then the most that can be said of him is that he will be a neutral person. But this is hardly an advantage. For, there is no guarantee that a neutral person will also be an impartial person. On the contrary a person who is neutral has also his interests and his prejudices and when he has no such interest he is likely to be ignorant. The European persona of the bureaucrat is therefore a doubtful advantage to the minorities who are anxious for the reservation of law and order. What however passes my comprehension is the failure of some of the representatives of the minorities to realise the great advantage which the ministerial system gives them as against the bureaucratic regime. For the best guarantee which the minorities can have for their own protection is power to control the actions of the executive. The bureaucratic system is impervious to this control. If it protects the minorities it is because it likes to do so. But if on any occasion it chooses not to take action the minorities have no remedy. In other words, a minister can be dictated to; but a bureaucrat may not even be advised. This it seems to me is a vital difference between the regime of the bureaucrat and the regime of the minister. Personally myself, I do not see how the minorities will lose by the transfer of law and order and I say this, although I belong to a minority whose members are treated worse than human beings. My view is that in a Legislature where minorities are adequately represented, it is to their advantage that law and order should be transferred. For, such transfer gives *them* the power of control over the administration of the subject which is denied to them under reservation. I think the minorities should consider seriously whether there is not sufficient truth in the statement that a rogue does better under the master's eye than an honest man unwatched; and if they do, I think they will realise that they can with good reason prefer inferior officers, over whom they can exercise an influence, to the most exemplary of mankind entirely free from such responsibility.

20. There is however another and a more important reason why Minorities prefer reservation to transfer. It is because their representation in the Legislature is so small as to make them inconsequential. From the standpoint of the minorities, the choice obviously is between reservation and no-representation on the one hand and transfer and adequate representation on the other. Here again the second alternative must be deemed to be more beneficial than the first. It would therefore be more in the interest of the minorities to insist on adequate representation than to persist in opposing the transfer of law and order. But, if the fear of mal-administration in the department of law and order to the prejudice of the minorities cannot be allayed by the grant of adequate representation to the minorities, I am prepared to add a proviso to my recommendation to the effect that if a minority of say 40 per cent. in the legislative council should decide by a vote that law and order be a reserved subject, it shall then be withdrawn from the list of transferred subjects. I make the proposal in preference to that of the Majority, because I hold that some day the subject shall have to be transferred if the principle of responsible government laid down in the Pronouncement of 20th August, 1917, is to be made good and that the proposal while it does not come in the way of giving effect to it immediately it does not preclude the possibility of cancelling the transfer, if experience shows that the fears entertained about it are well founded.

Chapter 2.

The Executive in Working.

21. The introduction of a unified government based on ministerial responsibility gives rise to four important questions. Of these the first pertains to the stability of the executive, the second to communal representation in the Executive, the third to the enforcement of the responsibility of the Executive and the fourth to the mutual relation among the members of the Executive.

22. Regarding the first question it is said that owing to the communal bias of the members of the legislature the legislature is bound to be composed of groups. With attachment to community more pronounced than loyalty to principles, the ministry may find itself resting on uncertain foundation of communal allegiance measured out in proportion to communal advantage so that if communities choose to transfer their allegiance according to their will and without reference to principles ministries may crumble as soon as they are formed. To prevent such an evil it is proposed that the ministry might be formed from a panel of men chosen by the various groups in the Council and once it is formed it should be made irremovable during the lifetime of the Council. I recognise that the fear of an unstable executive may come true. But I do not think that it calls for a remedy or a remedy of the kind suggested. India is not the only country with the group tendency manifesting itself in the Legislature. The French Chamber of Deputies is a more glaring instance of the group tendency involving frequent disruption of the ministries. All the same the French have felt that the situation, bad as it is, is not so intolerable as to call for a remedy. But assuming that what is anticipated comes true and the situation becomes intolerable, I am convinced that the remedy is not the right one. That the remedy will immensely weaken the responsibility of the ministers is beyond dispute. What, however, I am afraid of, is that the scheme instead of making for the coalescence of the groups will only serve to harden and perpetuate them; so that the remedy far from curing the disease will only aggravate it. The true remedy appears to me to lie along the line of reconstruction of the existing electorates.

23. I am totally opposed to the recognition of communal representation in the executive of the country. Under it, the disease will break out in its worst form in a most vital organ of the governmental machinery. It will be a dyarchy or triarchy depending upon the number of communities that will have to be recognised as being entitled to representation in the cabinet. It will no doubt be a communal dyarchy somewhat different from the political dyarchy which we have to-day. But that will not make it better than political dyarchy. The defects inherent in the one are inherent in the other and if the aim of constitutional reconstruction is a unified government, dyarchy in its communal form must be as summarily rejected as dyarchy in its political form. Indeed there is greater reason for the rejection of communal dyarchy than there is for the rejection of political dyarchy. For under political dyarchy the possibility of a Government based on principle exists. But communal dyarchy is sure to result in a Government based on class ideology.

24. It is a cardinal principle of the constitutional law of Great Britain and the self-governing Dominions that every minister is amenable to the Law Courts. Indeed it is owing to this wise principle that British subjects at home and in the Dominions are secure in person and property against ministerial wrong doing. India alone stands in strange contrast with Great Britain and the Dominions in the matter of legal responsibility of the Executive for illegal acts. During the course of a bitter conflict between the judiciary headed by Sir Iliajah Impey and the Executive backed by Warren Hastings, the Executive in India as early as 1780 secured for itself immunity from the control of the Courts. That

immunity has been continued to it ever since and now finds its place in sections 110 and 111 of the Government of India Act. Such an immunity was tolerated because it was local and not general. For it was provided that members of the Executive who could not be prosecuted in India were liable to prosecution in England for illegal acts done in India. This system of accountability if it was remote was none the less efficacious because under the old regime almost every member of the Executive by reason of the fact that he was a European returned to England. The composition of the Executive has now undergone a change. It is largely Indian in personnel and as the chances of any one of them going to England are so rare their liability can never in fact be enforced. The situation as it now stands provides no remedy either immediate or remote against wrongful acts of ministers. To allow the situation to continue, is to destroy the very basis of constitutional government. I therefore recommend that sections 110 and 111 of the Government of India Act should be amended so as to allow all British subjects, whether Indian or European, the right to resort to the Courts in respect of illegal acts ordered by ministers. Such a change in the law was urged in 1919 in respect of ministers. But it was not then accepted because its acceptance, it was thought, would introduce an invidious distinction between Ministers and Executive Councillors. With the introduction of full responsible government in the Provinces, this objection does not survive.

25. I hold so strongly to the view of enforcing legal responsibility of ministers for illegal acts that I propose that the constitution should provide for the constitution of a tribunal composed of the Legislature or partly of the Legislature and partly of the Judiciary before which ministers may be impeached for acts unlawful in themselves or acts prejudicial to the national welfare. I am aware that owing to the introduction of ministerial responsibility impeachment has fallen into disuse. But I feel that ministerial responsibility in India is only in the making and until the Legislature and the Executive have become conscious of its implications it is better to provide a more direct means of curbing the extravagances of power in the hands of men who are unused to it and who may be led to abuse it by excessive loyalty to caste and creed. A safeguard is never superfluous because it is not often invoked.

26. In determining the relationship between the members of the executive—whether each should be liable for his acts only or whether each should be liable for the acts of all, in other words, whether the liability should be individual or joint—is a question on which no one can dogmatise. All the same I am for joint responsibility. I am aware that under it the Legislature is practically helpless in the matter of punishing a delinquent minister. With joint responsibility the legislature will not be able to dismiss a minister of whose acts it disapproves; it will not be in position even formally to censure him, unless it is prepared to get rid of his colleagues as well. This no legislature functioning with a parliamentary executive dare do. For if it does, and overthrows the executive the executive will also overthrow the Legislature by asking for a dissolution. Notwithstanding this defect, I am in favour of joint responsibility and for two reasons. In a modern state the function of the executive as an administering body applying legislation has become a secondary function. Its main function is to determine policy and submit proposals to the Legislature. Indeed so necessary is the function that the usefulness of the Legislatures would be considerably diminished if the executive failed to perform it. But in order that the executive may perform the function of policy-making, there must be a unity of outlook among its members. Such a unity of outlook will not be possible without complete coherence in the executive. Joint responsibility, it appears to me, can alone ensure such coherence. Second reason why I recommend joint responsibility is because I fear that the principle of individual responsibility will never permit the growth of a common political platform

transcending the boundaries of caste and creed. It will perpetuate groups and the Presidency will for ever be condemned to a rule of Government by Coalition of groups which by their readiness to form new combinations, will plague the administration with instability and which by their preference for a policy of manœuvres to a policy of ideas, will fatally affect the integrity of the work of the administration. Under joint responsibility although a party may be a collocation of units of varying views yet members of each unit, not only shall be forced to do the best they can to formulate a unified policy but will be compelled to be bound by it. The habit of submitting to a party programme which is wider than the group programme will furnish a kind of education, the need of which must be keenly felt by all who know the conditions of India.

27. How to secure joint responsibility is a matter of some importance. To do it by express terms of law will leave no liberty either to the Head of the administration or the Legislature to dismiss a minister without dismissing the whole of the executive. It is therefore better to leave it to convention. The question how to make the convention operative still remains. It seems to me that if instead of the Governor choosing the ministers, the task was entrusted to one of the ministers to choose his colleagues, a cabinet so formed is bound to function on the basis of joint responsibility and would yet leave room for getting rid of an individual minister without changing the whole personnel of the government. I therefore suggest that the Governor should be instructed not to undertake directly the task of appointing individual ministers but to choose a chief minister and leave to him the work of forming a government.

28. My colleages have recommended that there should be 7 ministers to take charge of the administration of the Presidency. I am unable to concur in the recommendation in so far as it fixes the number of ministers. It may be that the future government of the Presidency might be able to do with less than 7 or may feel the necessity for having more than 7 to make no mention of having to appoint ministers without portfolios for satisfying the personal ambitions of members of the Legislature without whose support it may not be possible to carry on the government of the Province. Under these circumstances the wisest course seems to me to leave the question of the number of ministers open to be determined by the Legislature of the day.

Chapter 3.

The Position and Powers of the Governor.

29. Under the existing constitution the Governor of a Province does not occupy a well defined position. He has not the position of a constitutional head representing the Crown in the Province without any responsibility for the government of the Province. Nor is his position such as to invest him with a complete direction of the affairs of the Province. His position partakes of both. Such a position for the Governor which makes him play the double role of an autocrat and a constitutional head is not a very happy position either from the standpoint of the Governor or from the standpoint of smooth working of the governmental machine. Whatever the nature of the difficulties of the position of a Governor was made to occupy it was quite consistent with the type of the constitution that was introduced in 1919. As the constitution did not grant full responsible government the Governor was naturally not reduced to the position of a constitutional head. On the other hand, as the direction of the affairs of the Province was in some departments at any rate, transferred to responsible ministers, the Governor was not permitted to retain his former position as an irresponsible head. The change in the position of the Governor was thus based on an intelligent principle of reducing the executive powers of the Governor in direct ratio to the advance made towards responsible government. Following the logic of the principle laid

down in 1919, of making the position of the Governor to accord with the transfer of responsibility, I recommend that the Governor of the Province should be reduced to the position of a constitutional head. Indeed no other position for the Governor can be thought of, which will be compatible with the system of full responsible government.

30. Regarding his powers he shall have in his capacity as representing the Crown in the Executive of the Province the power to make appointments to the cabinet. In the same capacity, he will have the ultimate power of giving or refusing sanction, to any order proposed by the minister in any matter pertaining to any branch of the administration. As representing the Crown in the Legislature he will have in dealing with Bills passed by the Council the power (1) to assent, (2) to reserve assent pending signification of His Majesty's pleasure and (3) to refuse assent.

31. The exercise of these powers given to the Governor must of course be made conditional upon the formula that it must be with the advice of ministers responsible to the Legislature. This does not mean that he will not have the discretion to disagree with his ministers. Far from that being the case, he will retain the liberty not merely to tell his ministers that he does not approve of their policy but actually to dismiss the ministers who persist in a policy to which he is opposed. For there cannot be any obligation on a constitutional head compelling him to follow a minister responsible to a Legislature. The essence of his obligation is to follow the general wish of the electors and if he appears to follow the minister it is because a minister is supposed to represent the will of the electors. But there may be occasions when he may have reasons to doubt that the minister correctly represents the will of the general electorates. Consequently not only do the constitutions of all responsible governments recognise this possibility but they actually provide him with all possible means of ascertaining what the will of the electorates is. For that purpose the constitution of every responsible government permits the Governor to dismiss the ministers and appoint others who agree with him in the hope that the Legislature will support them. If the Legislature refuses support to the new ministers, the constitutions of all responsible governments permit him another resource that of an appeal to the electorates in the hope that they might support him. These resources the Governor of the Province must be allowed. But it is also necessary to bear in mind that no constitution gives him larger powers than these. If after the ascertainment of the will of the electorates, it is found that the decision has gone against him the constitution of every responsible government leaves him no other alternative but to yield, abdicate or fight. The Governor of a Province must be content with these resources. Under no circumstances can he have independent powers of action such as he has under the present constitution to certify measures not passed by the Legislature, sanction expenditure refused by the legislature or suspend the constitution by dismissing the ministers and assuming the direction of affairs himself. What is necessary therefore for making the Governor a constitutional head is to take away his powers of certification and suspension and thus make it impossible for him to act independently of ministers responsible to the legislature.

32. The precise language of the Section in which the obligation of the Governor to act on the advice of the minister is a matter of some moment. Section 52 (3) which deals with this seems to be too vaguely worded. It is too indefinitely worded to secure the desired end. Instead of stating that the Governor shall act on the advice of his ministers it would be better if the Section stated that no order of the Governor shall be valid unless it is countersigned by a minister. The obligatory force of such language is obvious. Accordingly I recommend such a change in the language of the Section.

33. Along with the definition of the powers of the Governor, the place of the Governor in the Executive must also be defined. Being relieved from the responsibility for the direction of affairs, the function of the Governor becomes supervisory rather than executive. His main business will be to see that those on whom the responsibility will now fall do not infringe the principles enunciated in the constitution for their guidance. In order that he may perform this function, he must be independent of local politics. That independence is absolutely essential to unprejudiced supervision. The best way of keeping him independent is to keep him away from the executive. Nothing will undermine public confidence in his impartial judgment so much as a direct participation by the Governor in political controversies. Nor can it be doubted that his association in the public mind with the controversies between the Legislature and the Executive will have any other result. If the Governor is to discharge his functions in a manner that will be regarded as fair it is very important that he must be above party. For that purpose he must be emancipated from the Executive as he has been dissociated from the Legislature. I therefore recommend that it should be provided that the Governor shall not be a part of the Executive nor shall he have the right to preside over it. The meetings of the Executive shall be summoned and presided over by the Prime Minister without any intervention of the Governor.

SECTION III.

PROVINCIAL LEGISLATURE.

Chapter 1.

Franchise.

34. My colleagues have recommended that the franchise in urban areas should remain as it is and that in rural areas the land revenue assessment should be halved. I am unable to agree to this. My colleagues have treated the question of franchise as though it was a question of favour rather than of right. I think that such a view is too dangerous to be accepted as the basis of political society in any country. For if the conception of a right to representation is to be dismissed as irrelevant; if a moral claim to representation is to be deemed as nothing but a metaphysical or sentimental abstraction; if franchise is considered a privilege to be given or withheld by those in political power according to their own estimate of the use likely to be made of it, then it is manifest that the political emancipation of the unenfranchised will be entirely at the mercy of those that are enfranchised. To accept such a conclusion is to accept that slavery is no wrong. For slavery, too, involves the hypothesis that men have no right but what those in power choose to give them. A theory which leads to such a conclusion must be deemed to be fatal to any form of popular Government, and as such I reject it *in toto*.

35. My colleagues look upon the question of franchise as though it was nothing but a question of competency to put into a ballot box a piece of paper with a number of names written thereon. Otherwise they would not have insisted upon literacy as a criterion for the extension of the franchise. Such a view of the franchise is undoubtedly superficial and involves a total misunderstanding of what it stands for. If the majority had before its mind the true conception of what franchise means they would have realised that franchise, far from being a transaction concerned with the marking of the ballot paper, "stands for direct and active participation in the regulation of the terms upon which associated life

shall be sustained and the permit of good carried on." Once this conception of franchise is admitted, it would follow that franchise is due to every adult who is not a lunatic. For, associated life is shared by every individual and as every individual is affected by its consequences, every individual must have the right to settle its terms. From the same premises it would further follow that the poorer the individual the greater the necessity of enfranchising him. For, in every society based on private property the terms of associated life as between owners and workers are from the start set against the workers. If the welfare of the worker is to be guaranteed from being menaced by the owners the terms of their associated life must be constantly resettled. But this can hardly be done unless the franchise is dissociated from property and extended to all propertyless adults. It is therefore clear that judged from either point of view the conclusion in favour of adult suffrage is irresistible. I accept that conclusion and recommend that the franchise should be extended to all adults, male and female, above the age of 21.

36. Political justice is not the only ground for the introduction of adult suffrage. Even political expediency favours its introduction. One of the reasons why minorities like the Mohamedan insist upon communal electorates is the fear that in a system of joint electorates the voters of the majority community would so largely influence the election that seats would go to men who were undesirable from the standpoint of the minority. I have pointed out in a subsequent part of the report that such a contention could be effectively disposed of by the introduction of adult suffrage. The majority has given no thought to the importance of adult suffrage as an alternative to communal electorates. The majority has proceeded as though communal electorates were a good to be preserved and have treated adult suffrage as though it was an evil to be kept within bounds. My view of them is just the reverse. I hold communal electorates to be an evil and adult suffrage to be a good. Those who agree with me will admit that adult suffrage should be introduced not only because of its inherent good but also because it can enable us to get rid of the evil of communal electorates. But even those whose political faith does not include a belief in adult suffrage, will, I am sure, find no difficulty in accepting this view. For it is only common sense to say that a lesser evil is to be preferred to a greater evil and there is no doubt that adult suffrage, if it is at all an evil, is a lesser evil than communal electorates. Adult suffrage, which is supported by political justice and favoured by political expediency, is also, I find, demanded by a substantial body of public opinion. The Nehru Committee's report, which embodies the views of all the political parties in India except the Non-Brahmins and the Depressed Classes, favours the introduction of adult suffrage. The Depressed Classes have also insisted upon it. The Sindh Mohamedan Association, one Mohamedan member and one Non-Brahmin member of the Government of Bombay, have expressed themselves in favour of it. There is thus a considerable volume of public opinion in support of adult franchise. My colleagues give no reason why they have ignored this volume of public opinion.

37. Two things appear to have weighed considerably with my colleagues in their decision against the introduction of adult suffrage. One is the extent of illiteracy prevalent in the country. No one can deny the existence of illiteracy among the masses of the country. But that this factor should have any bearing on the question of franchise is a view the correctness of which I am not prepared to admit. First of all, illiteracy of the illiterate is no fault of theirs. The Government of Bombay for a long time refused to take upon itself the most important

function of educating the people, and, when it did, it deliberately confined the benefit of education to the classes and refused to extend it to the masses.*

38. It was not until 1854, that Government declared itself in favour of mass education as against class education. But the anxiety of Government for the spread of education among the masses has gone very little beyond the passing of a few resolutions. In the matter of financial support Government always treated education with a most niggardly provision. It is notorious, how Government, which is always in favour of taxation refused to consent to the proposal of the Honourable Mr. Gokhale for compulsory primary education, although it was accompanied by a measure of taxation. The introduction of the Reforms has

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* Lest this fact should be regarded as a fiction, I invite attention to the following extracts from the report of the *Board of Education of the Bombay Presidency for the year* 1850-51:—

SYSTEM ADOPTED BY THE BOARD BASED ON THE VIEWS OF COURT OF DIRECTORS.

"*Paragraph* 5. Thus, the Board of Education at this Presidency, having laid down a scheme of education, in accordance with the leading injunctions of Despatches from the Honourable Court, and founded not more on the opinions of men who had been attentively considering the progress of education in India, such as the Earl of Auckland, Major Candy and others, than on the openly declared wants of the most intelligent of the natives themselves, the Board, we repeat, were informed by your Lordship's predecessor in Council that the process must be reversed."

VIEWS OF COURT ON THE EXPEDIENCY OF EDUCATING THE UPPER CLASSES.

"*Paragraph* 8. Equally wise, if we may be permitted to use the expression, do the indications of the Honourable Court appear to us to be as to the quarters to which Government education should be directed, and specially with the very limited funds which are available for this branch of expenditure. The Honourable Court write to Madras in 1830 as follows:—'*The improvements in education, however, which most effectively contribute to elevate the moral and intellectual condition of a people are those which concern the education of the higher classes—of the persons possessing leisure and natural influence over the minds of their countrymen. By raising the standard of instruction amongst these classes you would eventually produce a much greater and more beneficial change in the ideas and the feelings of the community than you can hope to produce by acting directly on the more numerous class. You are, moreover, acquainted with our anxious desire to have at our disposal a body of natives qualified by their habits and acquirements to take a larger share and occupy higher situations in the civil administration of their country than has been hitherto the practice under our Indian Government.*' Nevertheless, we hear on so many sides, even from those who ought to know better of the necessity and facility for educating the masses, for diffusing the arts and sciences of Europe amongst the hundred or the hundred and forty millions (for numbers count for next to nothing) in India, and other like generalities indicating cloudy notions on the subject, that a bystander might almost be tempted to suppose the whole resources of the State were at the command of Educational Boards, instead of a modest pittance inferior in amount to sums devoted to a single establishment in England."

hardly improved matters. Beyond the passing of a Compulsory Primary Education Act in the Presidency there has not been any appreciable advance in the direction of mass education. On the contrary there has been a certain amount of deterioration owing to the transfer of education to local authorities which are manned, comparatively speaking, by people who, being either indifferent or ignorant, are seldom keen for the advancement of education.

39. In the case of the Depressed Classes the opportunity for acquiring literacy has in fact been denied to them. Untouchability has been an insuperable bar in their way to education. Even Government has bowed

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CONCLUSION THAT NO MEANS EXIST FOR EDUCATING THE MASSES.

"*Paragraph* 14. It results most clearly from these facts, that if sufficient funds are not available to put 175 vernacular schools into a due state of organisation, and to give a sound elementary education to 10,730 boys, all question as to educating 'the masses,' the 'hundred and forty millions,' the 900,000 boys, in the Bombay Presidency disappears. The object is not one that can be attained or approximated to by Government, and Educational Boards ought not to allow themselves to be distracted from a more limited practical field of action by the visionary speculations of uninformed benevolence."

VIEWS OF COURT OF DIRECTORS AS TO THE BEST METHOD OF OPERATION WITH LIMITED MEANS.

"*Paragraph* 15. The Honourable Court appear to have always kept the conclusion which has been arrived at in the last paragraph very distinctly in view. Perceiving that their educational efforts to improve the people could only be attempted on a very small scale, they have deemed it necessary to point out to their different Governments the true method of producing the greatest results with limited means. We have already cited their injunctions to the Madras Government on this head (paragraph 7), and their despatch to the Government on the same date enforces sentiment of exactly the same import:—'*It is our anxious desire to afford to the higher classes of the natives of India the means of instruction in European sciences and of access to the literature of civilised Europe. The character which may be given to the classes possessed of leisure and natural influence ultimately determines that of the whole people.*'"

INQUIRY AS TO UPPER CLASSES OF INDIA.

"*Paragraph* 16. It being then demonstrated that only a small section of the population can be brought under the influence of Government education in India, and *the Honourable Court having in effect decided that this section should consist of the 'upper classes,' it is essential to ascertain who these latter consist of.* Here it is absolutely necessary for the European inquirer to divest his mind of European analogies which so often insinuate themselves almost involuntarily into Anglo-Indian speculations. Circumstances in Europe, especially in England, have drawn a marked line, perceptible in manners, wealth, political and social influence, between the upper and lower classes. No such line is to be found in India, where, as under all despotisms, the will of the Prince was all that was requisite to raise men from the humblest condition in life to the highest station, and where, consequently, great uniformity in manners has always prevailed. A beggar, according to English notions, is fit only for the stocks or compulsory labour in the workhouse; in India he is a respectable character and worthy indeed of veneration according to the Braminical theory, which considers him as one who has renounced all the pleasures and temptations of life for the cultivation of learning and undisturbed meditation on the Deity."

before it and has sacrificed the rights of the Depressed Classes to admission in public schools to the exigencies of the social system in India. In a resolution of the year 1856 the Government of Bombay in rejecting the petition of a Mahar boy to a school in Dharwar observed: "The question discussed in the correspondence is one of very great practical difficulty.

"1. There can be no doubt that the Mahar petitioner has abstract justice in his side; and Government trust that the prejudices which at present prevent him from availing himself of existing means of education in Dharwar may be ere long removed.

"2. But Government are obliged to keep in mind that to interfere with the prejudices of ages in a summary manner, for the sake of one or few individuals, would probably do a great damage to the cause of education. The disadvantage under which the petitioner labours is not one which has originated with this Government, and it is one which Government cannot summarily remove by interfering in his favour, as he begs them to do."

The Hunter Commission which followed after the lapse of 26 years did say that Government should accept the principle that nobody be

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UPPER CLASSES IN INDIA.

"*Paragraph* 17. The classes who may be deemed to be influential and in so far the upper classes in India, may be ranked as follows:—

1st. The landowners and jaghirdars, representatives of the former feudatories and persons in authorities under Native powers, and who may be termed the Soldier class.

2nd. Those who have acquired wealth in trade or commerce or the commercial class.

3rd. The higher *employees* of Government.

4th. Brahmins, with whom may be associated though at long interval those of higher castes of writers who live by the pen such as Parbhus and Shenvies in Bombay, Kayasthas in Bengal, provided they acquire a position either in learning or station.

BRAHMINS THE MOST INFLUENTIAL.

"*Paragraph* 18. Of these four classes incomparably the most influential, the most numerous and on the whole easiest to be worked on by the Government, are the latter. It is a well-recognised fact throughout India that the ancient Jaghiadars or Soldier class are daily deteriorating under our rule. Their old occupation is gone, and they have shown no disposition or capacity to adopt a new one, or to cultivate the art of peace. In the Presidency the attempts of Mr. Elphinstone and his successors to bolster up a landed aristocracy have lamentably failed; and complete discomfiture has hitherto attended all endeavours to open up a path to distinction through civil honours and education to a race to whom nothing appears to excite but vain pomp and extravagance, of the reminiscences of their ancestors successful raids in the plains of Hindusthan, nor among the commercial classes, with a few exceptions, is there much greater opening for the influences of superior education. As in all countries, but more in India than in the higher civilised ones of Europe, the young merchants or trader must quit his school at an early period in order to obtain the special education needful for his vocation in the market or the counting house. Lastly the employees of the state, though they posses a great influence over the large numbers who come in contact with Government, have no influence, whatever, with the still larger numbers who are independent of Government; and, indeed, they appear to inspire the same sort of distrust with the public as Government functionaries in England, who are often considered by the vulgar as mere hacks of the state.

refused admission to a Government College or School merely on the ground of caste. But it also felt it necessary to say that the principle should " be applied with due caution " and the result of such caution was that the principle was never enforced. A bold attempt was, no doubt, made in 1921 by Dr. Paranjpye, when he was the Minister of Education. But as his action was without any sanction behind it, his circular regarding admission of the Depressed Classes to Schools is being evaded, with the result that illiteracy still continues to be a deplorable feature of the life of the Depressed Classes.

40. To the question that is often asked how can such illiterate people be given the franchise, my reply therefore is, who is responsible for their illiteracy? If the responsibility for illiteracy falls upon the Government, then to make literacy a condition precedent to franchise is to rule out the large majority of the people who, through no fault of their own, have never had an opportunity of acquiring literacy provided to them. Granting that the extension of franchise must follow the removal of illiteracy what guarantee is there that efforts will be made to remove

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POVERTY OF BRAHMINS.

" Paragraph 19. *The above analysis, though it may appear lengthy is nevertheless, indispensable, for certain important conclusions deducible from it. First, it demonstrates that the influential class whom the Government are able to avail themselves of in diffusing the seeds of education are the Brahmins and other high castes* Brahmannis proximi. But the Brahmins and these high castes are for the most part wretchedly poor; and in many parts of India the term Brahmin is synonymous with ' beggar.'

WEALTHY CLASSES WILL NOT AT PRESENT SUPPORT SUPERIOR EDUCATION.

" *Paragraph* 20. We may see, then, how hopeless it is to enforce what your Lordship in Council so strongly enjoined upon us in your letter of the 24th April, 1850,—what appears, *primâ facie*, so plausible and proper in itself—what in fact, the Board themselves have very often attempted, viz., the strict limitation of superior education ' to the wealthy, who can afford to pay for it, and to youths of unusual intelligence.' The invariable answer the Board has received when attempting to enforce a view like this, has been, that the wealthy are wholly indifferent to superior education and that no means for ascertaining unusual intelligence amongst the poor exist until their faculties have been tested and developed by school training. A small section from among the wealthier classes is no doubt displaying itself, by whom the advantages of superior education are recognised, it appears larger in Bengal, where education has been longer fostered by Government, than in Bombay, and we think it inevitable that such class must increase, with the experience that superior attainments lead to distinction, and to close intercourse with Europeans on the footing of social equality: but as a general proposition at the present moment, we are satisfied that the academical instruction in the arts and sciences of Europe cannot be based on the contributions either of students or of funds from the opulent classes of India.

QUESTION AS TO EDUCATING LOW CASTES.

" Paragraph 21. *The practical conclusion to be drawn from these facts which years of experience have forced upon our notice, is that a very wide door should be opened to the children of the poor higher castes, who are willing to receive education at our hands. But here, again, another embarrassing question arises, which it is right to notice: If the children of the poor are admitted freely to Government Institutions what is there to prevent all the despised castes—the Dheds, Mhars, etc., from flocking in numbers to their walls?*

illiteracy as early as possible? The question of education like other nation-building questions is ultimately a question of money. So long as money is not forthcoming in sufficient amount, there can be no advance in education. How to find this money is therefore the one question that has to be solved. That a Council elected on the present franchise will never be in a position to solve the problem is beyond dispute. For the simple reason that money for education can only be provided by taxing the rich and the rich are the people who control the present Council. Surely the rich will not consent to tax themselves for the benefit of the poor unless they are compelled to do so. Such a compulsion can only come by a radical change in the composition of the Council which will give the poor and illiterate adequate voice therein. Unless this happens the question of illiteracy will never be solved. To deny them that right is to create a situation full of injustice. To keep people illiterate and then to make their illiteracy the ground for their non-enfranchisement is to add insult to injury. But the situation indeed involves more than this. It involves an aggravation of the injury. For to keep people illiterate and then to deny them franchise which is the only means whereby they could effectively provide for the removal of their illiteracy is to perpetuate their illiteracy and postpone indefinitely the day of their enfranchisement.

41. It might be said that the question is not who is responsible for illiteracy; the question is whether illiterate persons should be given the right to vote. My answer is that the question cannot be one of literacy or illiteracy; the question can be of intelligence alone. Those who insist on literacy as a test and insist upon making it a condition precedent to enfranchisement, in my opinion, commit two mistakes. Their first mistake consists in their belief that an illiterate person is necessarily an unintelligent person. But everyone knows that, to maintain that an illiterate person can be a very intelligent person, is not to utter a paradox. Indeed an appeal to experience would fortify

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SOCIAL PREJUDICES OF THE HINDUS.

" Paragraph 22. *There is little doubt that if a class of these latter were to be formed in Bombay they might be trained, under the guiding influence of such Professors and masters as are in the service of the Board, into men of superior intelligence to any in the community; and with such qualifications, as they would then possess, there would be nothing to prevent their aspiring to the highest offices open to Native talent*—to Judgeships, the Grand Jury, Her Majesty's Commission of the Peace. *Many benevolent men think it is the height of illiberality and weakness in the British Government to succumb to the prejudices which such appointments would excite into disgust amongst the Hindu community, and that an open attack should be made upon the barriers of caste.*

WISE OBSERVATIONS OF THE HONOURABLE MOUNT STUART ELPHINSTONE CITED.

" Paragraph 23. *But here the wise reflections of Mr. Elphinstone, the most liberal and large minded administrator who has appeared on this side of India, point out the true rule of action. 'It is observed,' he says, 'that the missionaries find the lowest caste the best pupils; but we must be careful how we offer any special encouragement to men of that description; they are not only the most despised, but among the least numerous of the great divisions of society and it is to be feared that if our system of education first took root among them, it would never spread further, and we might find ourselves at the head of a new class, superior to the rest in useful knowledge, but hated and despised by the castes to whom these new attainments would always induce us to prefer them. Such a state of things would be desirable, if we were contented to rest our power on our army or on the attachment of a part of the population but is inconsistent with every attempt to found it on a more extended basis.'* "

the conclusion that illiterate people all over the world including India have intelligence enough to understand and manage their own affairs. At any rate the law presumes that above a certain age every one has intelligence enough to be entrusted with the responsibility of managing his own affairs. The illiterate might easily commit mistakes in the exercise of the franchise. But then the Development Department of Bombay has fallen into mistakes of judgment equally great which though they are condemned, are all the same tolerated. And even if they fall into greater errors it may still be well that they should have franchise. For all belief in free and popular Government rests ultimately on the conviction that a people gains more by experience than it loses by the errors of liberty and it is difficult to perceive why a truth that holds good of individuals in non-political field should not hold good in the political field. Their second mistake lies in supposing that literacy necessarily imports a higher level of intelligence or knowledge than what the illiterate possesses. On this point the words of Bryce might be quoted. In his survey of " Modern Democracies " he raises the question how far ability to read and write goes towards civic competence and answers thus: " Because it is the only test practically available, we assume it to be an adequate test. Is it really so? Some of us remember, among the English rustics of sixty years ago shrewd men, unable to read but with plenty of mother wit, and by their strong sense and solid judgment quite as well qualified to vote as are their grand-children to-day who read a newspaper and revel in the cinema . . . . . The Athenian voters . . . . were better . . . . fitted for civic franchise than most of the voters in modern democracies. These Greek voters learnt politics not from the printed and, few even from any written page, but by listening to accomplished orators and by talking to one another. Talking has this advantage over reading, that in it mind is less passive. It is thinking that matters, not reading, and by thinking, I mean the power of getting at facts, and arguing consecutively from them. In conversation there is a clash of wits, and to that, some mental exertion must go . . . . But in these days of ours reading has become substitute for thinking. The man who reads only the newspaper of his own party, and reads its political intelligence in a medley of other stuff, narratives of crimes and descriptions of football matches, need not know that there is more than one side to a question and seldom asks if there is one, nor what is the evidence for what the paper tells him. The printed page, because it seems to represent some unknown power, is believed more readily than what he hears in talk. He takes from it statements, perhaps groundless, perhaps invented, which he would not take from one of his fellows in the workshop or the counting house. Moreover, the Tree of Knowledge is the Tree of the Knowledge of Evil as well as of Good. On the Printed Page Truth has no better chance than Falsehood, except with those who read widely and have the capacity of discernment. A party organ, suppressing some facts, misrepresenting some others, is the worst of all guides, because it can by incessantly reiterating untruth produce a greater impression than any man or body of men, save only ecclesiastics clothed with a spiritual authority, could produce before printing was invented. A modern voter so guided by his party newspapers is no better off than his grandfather who eighty years ago voted at the bidding of his landlord or his employer or (in Ireland) of his Priest. The grandfather at least knew whom he was following, while the grandson, who only reads what is printed on one side of a controversy may be the victim of selfish interests who own the organs which his simplicity assumes to express public opinion or to have the public good at heart. So a democracy that has been taught only to read and not also to reflect and judge, will not be better for the ability to read."

42. It seems to me that too much is being made out of the illiteracy of the masses in India. Take the English voter and inquire into his

conduct as a voter and what do we find? This is what the Times Literary Supplement of August 21, 1924, says about him—

> "The mass of the people have no serious interest. Their votes decide all political issues, but they know nothing of politics. It is a disquieting, but too well-founded reflection that the decision about tariff reform or taxation or foreign policy is now said by men and women who have never read a dozen columns of serious politics in their lives. Of the old narrow electorate of eight years ago probably at least two-thirds eagerly studied political speeches on the question of the day. To-day not five per cent. of the voters read either debates or leading articles. The remnant, however remarkable, is small. Democracy as a whole is as content with gross amusement as Bottles was with vulgar ones, and like him it leases his mind to its newspaper which makes his Sundays much more degrading than those which he spent under his Baptist Minister. This is the atmosphere against whose poisonous gases the schools provide in vain the helmet of their culture."

43. Surely if British Democracy—say the British Empire—is content to be ruled by voters such as above, it is arguable that Indians who are opposed to adult suffrage are not only unjust and visionaries but are protesting too much and are laying themselves open to the charge that they are making illiteracy of the masses an excuse to pocket their political power. For, to insist that a thorough appreciation of the niceties of political creeds and the ability to distinguish between them are necessary tests of political intelligence is, to say the least, hypercritical. On small political questions no voter, no matter in what country he is, will ever be accurately informed. Nor is such minute knowledge necessary. The most that can be expected from an elector is the power of understanding broad issues and of choosing the candidate who in his opinion will serve him best. This, I make bold to say, is not beyond the capacity of an average Indian.

44. The other thing which apparently weighed with my colleagues in refusing to accept adult suffrage is the analogy of the countries like England. It is argued that the extension of the franchise from forty shilling freehold in 1429 to adult suffrage in 1918 has taken altogether a period of 589 years; that previous to 1832 there were less than 500,000 persons who had the right to vote in the election of members of Parliament; that it was not until the Reform Act of that year that the number of voters was increased to nearly 1,000,000; that no further step was taken to lower the franchise till the passing of the Act of 1867 which increased it to 2,500,000; that the next step was taken 17 years after when the Act of 1884 increased it again to 5,500,000; and that adult suffrage did not come till after a lapse of 34 years when People's Representation Act of 1918 was passed. This fact has been used for very different purposes by different set of peoples. A set of politicians who are social tories and political radicals use this in support of their plea that the legislature can be given full powers although it may not be fully representative and in reply to this argument of their opponents that the transference of power to a legislature so little representative will be to transfer it to an oligarchy. By others in support of their plea that in the matter of franchise we must proceed slowly and go step by step as other nations have done. To the second group of critics my reply is that there is no reason why we should follow in the footsteps of the English nation in this particular matter. Surely the English people had not devised any philosophy of action in the matter of franchise. On the other hand, if the extension was marked by such long intervals it was because of the self-seeking character of the English ruling classes. Besides, there is no reason why every nation should go through the same stages and enact the same scenes as other nations have done. To do so is to refuse to reap the advantage which is always open to those who are born later. To the other section of

critics my reply is that their contention as a fact is true, that Parliament did exercise full powers of a sovereign state even when it represented only a small percentage of the population. But the question is with what results to the nation? Anyone who is familiar with the history of social legislation by the unreformed Parliament as told by Lord Shaftesbury certainly will not wish the experiment to be repeated in this country. This result was the inevitable result of class rule and class rule was the inevitable result of the restricted franchise which obtained in England. The facts relied upon by these critics in my opinion do not go to support a government based upon a restricted franchise. If they prove anything it is that a government based upon a restricted franchise is a worse form of government in that it gives rise to the rule of oligarchy. Such a result was never contemplated by the authors of the Joint Report. Indeed they were so conscious of the evil that in paragraph 262 of their Report they were particular enough to say that among the matters for consideration the Statutory Commission should consider the working of the franchise and the constitution of electorates, including the important matter of the retention of communal representation. "Indeed we regard the development of a broad franchise as the arch on which the edifice of self-government must be raised: for we have no intention that our reforms should result merely in the transfer of powers from a bureaucracy to an oligarchy."

45. What is however the remedy for preventing oligarchy? The only remedy that I can think of is the grant of adult suffrage. It is pertinent to remark that the members of the Ceylon Commission of 1928 who like the authors of the Joint Report were conscious that "the grant of a responsible government to an electorate of these small dimensions would be tantamount to placing an oligarchy in power without any guarantee that the interests of the remainder of the people would be consulted by those in authority" and who felt it "necessary to observe that His Majesty's Government is the trustee not merely of the wealthier and more highly educated elements in Ceylon but quite as much of the peasant and the coolie, and of all those poorer classes which form the bulk of the population" and who held that "to hand over the interests of the latter to the unfettered control of the former would be a betrayal of its trust," came "to the conclusion that literacy should not remain as one of the qualifications for voters at election of State Council." They said "the development of responsible government requires, in our opinion, an increasing opportunity to the rank and file of the people to influence the Government and the franchise cannot be fairly or wisely confined to the educated classes." If adult franchise can be prescribed for Ceylon the question that naturally arises is why should it not be prescribed for India? Similarity in the political, social, economic, and educational conditions of the two countries is so striking that to treat them differently in the matter of franchise is to create a distinction when there is no real difference to justify the same. Analogy apart and considering the case purely on merits it is beyond doubt that of the two if any one of them is more fitted to be trusted with the exercise of adult suffrage it is the people of India and more so the people of the Bombay Presidency wherein the system of adult suffrage is already in vogue in the village punchayets.

Chapter 2.

Electorates.

46. The existing Legislative Council is composed of 114 members, of whom 28 are nominated and 86 are elected. The nominated members fall into two groups (*a*) officials to represent the reserved half of the Government and (*b*) the non-officials to represent (1) the Depressed Classes, (2) Labouring Classes, (3) Anglo-Indians, (4) Indian Christians and (5) the Cotton Trade. Of the elected members (1) some are elected by class-electorates created to represent the interests of the landholders,

commerce and industry, (2) some by reserved electorates for Maratha and allied castes and the rest, (3) by communal electorates which are instituted for the Muhammadans and the Europeans. The question is whether this electoral structure should be preserved without alteration. Before any conclusion can be arrived at, it is necessary to evaluate it, in the light of considerations both theoretical as well as practical.

Nominated Members.

47. Against the nominated members it is urged that their presence in the Council detracts a great deal from its representative character. Just as the essence of responsible self-government is the responsibility of the Executive to the Legislature, so the essence of representative government lies in the responsibility of the legislature to the people. Such a responsibility can be secured only when the legislature is elected by the people. Not only does the system of nominated members make the house unrepresentative, it also tends to make the Executive irresponsible. For, by virtue of the power of nominations, the Executive on whose advice that power is exercised, appoints nearly 25 per cent. of the legislature with the result that such a large part of the house is in the position of the servants of the Executive rather than its critics. That the nominated non-officials are not the servants of the Government cannot go to subtract anything from this view. For the nominated non-official can always be bought and the Executive has various ways open to it for influencing an elected member with a view to buy up his independence. A direct conferment of titles and honours upon a member, or bestowal of patronage on his friends and relatives, are a few of such methods. But the nominated non-official members are already in such an abject state of dependence that the Executive has not to buy their independence. They never have any independence to sell. They are the creatures of the Executive and they are given seats on the understanding, if not on the condition, that they shall behave as friends of the Executive. Nor is the Executive helpless against a nominated member who has the audacity to break the understanding. For, by the power of renomination which the Executive possesses, it can inflict the severest penalty by refusing to renominate him and there are instances where it has inflicted that punishment. Like the King's veto, the knowledge that this power to renominate exists, keeps every nominated member at the beck and call of the Executive.

48. Another evil arising from the system of nomination must also be pointed out. The nominated non-official members were to represent the interests of certain communities for whose representation the electoral system as devised, was deemed to be inadequate just as the nominated official members were appointed to support the interests of government. The regrettable thing is that while the nominated officials served the interests of government, the nominated non-officials failed to serve the interests of their constituents altogether. Indeed a nominated non-official cannot serve his community. For more often that not the interests of the communities can only be served by influencing governmental action, and this is only possible when the Executive is kept under fire and is made to realise the effects of an adverse vote. But this means is denied to a nominated member by the very nature of his being, with the result that the Executive, being assured of his support, is indifferent to his cause and the nominated member, being denied his independence, is helpless to effect any change in the situation of those whom he is nominated to represent. Representation by nomination is thus no representation. It is only mockery.

49. Another serious handicap of the system of nomination is that the nominated non-officials are declared to be ineligible for ministership. In theory there ought not to be limitations against the right of a member of the legislature to be chosen as a minister of an administra-

tion. Even assuming that such a right is to be limited, the purpose of such limitation must be the interests of good and efficient administration. Not only that is not the purpose of this limitation but that the limitation presses unequally upon different communities owing to the difference in the manner of their representation and affects certain communities which ought to be free from its handicap. Few communities are so greatly in need of direct governmental action as the Depressed Classes for effecting their betterment. It is true that no degree of governmental action can alter the face of the situation completely or quickly. But making all allowance for this, no one can deny the great benefits that wise legislation can spread among the people. All these classes do in fact begin and often complete their lives under a weight of inherited vices and social difficulties, for the existence of which society is responsible, and for the mitigation of which much can be done by legislation. The effect of legislation to alter the conditions under which the lives of individuals are spent has been recognised everywhere in the world. But this duty to social progress will not be recognised unless those like the Depressed Classes find a place in the Cabinet of the country. The system of nomination must therefore be condemned. Its only effect has been to produce a set of men who usually subordinate the care of their constituents to the desire for place.

Elected Members.

50. *Class Electorates.*—These class electorates are a heritage of the Morley-Minto Reforms. The Morley-Minto Scheme was an attempt at make-believe. For under it the bureaucracy without giving up its idea to rule was contriving to create legislatures by arranging the franchise and the electorates in such a manner as to give the scheme the appearance of popular rule without the reality of it. To such a scheme of things, these class electorates were eminently suited. But the Montagu-Chelmsford Scheme was not a make-believe. It contemplated the rule of the people. Consequently it was expected to suggest the abolition of such class electorates. Owing, however, to the powerful influence, which these classes always exercised, the authors of the Report were persuaded to recommend their continuance, which recommendation was given effect to by the Southborough Committee. Whatever the reason that led to the retention of these class electorates, there is no doubt that their existence cannot be reconciled with the underlying spirit of popular government. Their class character is a sufficient ground for their condemnation. In a deliberative assembly like the legislature, where questions of public interest are decided in accordance with public opinion, it is essential that members of the Council who take part in the decision should each represent that opinion. Indeed no other person can be deemed to be qualified to give a decisive vote on the issues debated on the floor of the house. But the representatives of class interests merely reflect the opinions, one might say, the prejudices of their class, and should certainly be deemed to be disqualified from taking part in the decision of issues which lie beyond the ambit of the interests of their class. Notwithstanding their class character as members of legislature they acquire the competence to vote upon all the issues whether they concern their own class or extend beyond. This, in my opinion, is quite subversive of the principle of popular government. It might be argued that representatives of such class interests are necessary to give expert advice on those sectional issues with which the unsectional house is not familiar. As against this, it is necessary to remember that in a democracy, the ultimate principle is after all self-government and that means that final decision on all matters must be made by popularly elected persons and not by experts. It is moreover noteworthy that the advice of such people is not always serviceable to the house. For, their advice invariably tends to become eloquent expositions of class ideology rather than careful exposition of the formulæ in dispute.

51. Assuming, however, that it is necessary either to safeguard the interests of these classes or to tender advice to the house on their behalf, it is yet to be proved that these interests will not secure sufficient representation through general electorates. Facts, such as we have, show that they can. Taking the case of the Inamdars, though they have been given three seats through special electorates of their own, they have been able to secure 12 seats through the general electorates. Indeed by virtue of the solidarity which they have with other landholding members of the Council, they felt themselves so strong in numbers that only a few months back they demanded a ministerial post for the leader of their class. Besides, it is not true that without class-electorates there will be no representation of the interests of these classes in the Council. Such interests will be amply safeguarded by a member belonging to that class, even if he is elected by a general constituency. This will be clear if we bear in mind that a member taking his seat in the legislature, although he represents directly his constituency, yet indirectly he does represent himself and to that extent also his class. Indeed, from the very nature of things this tendency on the part of a member, indirectly to represent himself, although it might be checked, controlled and overruled, so surely manifests itself that it throws, and must necessarily throw, direct representation into the background. No one for instance can believe that a European gentleman representing a Chamber of Commerce will only represent the interests of commerce and will not represent the interests of the European community because he is elected by a Chamber of Commerce and not by the general European community. It is in the nature of things that a man's self should be nearer to him than his constituency. There is a homely saying that a man's skin sits closer to him than his shirt and without any imputation on their good faith, so it is with the members of the legislature. It is the realisation of this fact which has led the English people who at one time wished that the shipping trade, the woollen trade and the linen trade should each have its spokesman in the House of Commons, to abandon the idea of such class-electorates. It is difficult to understand why a system abandoned elsewhere should be continued in India. It is not necessary in the interests of these classes and it is harmful to the body politic. The only question is whether or not persons belonging to the commercial and individual classes can secure election through the general constituencies. I know of nothing that can be said to handicap these classes in the race of election. That there is no handicap against them is proved by the success of Sardars and Inamdars in general election. Where Inamdars and Sardars have succeeded there is no reason why representatives of commerce and industry should not.

52. *Reserved Electorates.*—Three objections can be raised against the system of reserved electorates. One is that it seeks to guarantee an electoral advantage to a majority. It is true that the Marathas and the allied castes form a majority in the Marathi speaking part of the Presidency both in population as well as in voting strength and as such deserve no political protection. But it must be realised that there is all the difference in the world between a power informed and conscious of its strength and power so latent and suppressed that its holders are hardly aware of that they may exercise it. That the Marathas and the allied castes are not conscious of their power, is sufficiently evident if we compare the voting strength of the Marathas and the allied castes in those constituencies wherein seats are reserved for them, with the rank of their representatives among the different candidates contesting the elections. In every one of such constituencies the Maratha voters, it must be remembered, have a preponderance over the voters of other communities. Yet in the elections of 1923 and 1926, out of the seven seats allotted to them, they could not have been returned in three had it not been for the fact that the seats were reserved for them. It is indeed strange that the candidates of a community which is at the

top in the electoral roll, should find themselves at the bottom, almost in a sinking position. This strange fact is only an indication that this large community is quite unconscious of the power it possesses, and is subject to some influence acting upon it from without.

53. The second ground of objection, urged by the members of the higher classes who are particularly affected by the system of reserved seats, is that it does an injustice to them in that it does not permit them the benefit of a victory in a straight electoral fight. It is true that the system places a restriction upon the right of the higher classes to represent the lower classes. But is there any reason why "*the right to represent*," as distinguished from "*a right to representation*," should be an unrestricted right? Modern politicians have spent all their ingenuity in trying to find out the reason for restricting the right to vote. In my opinion there is a greater necessity why we should strive to restrict the right of a candidate to represent others. Indeed, there is no reason why the implications of the representative function should not define the condition of assuming it. It would be no invasion of the right to be elected to the Legislature to make it depend, for example, upon a number of years' service on a local authority and to rule out all those who do not fulfil that condition. It would be perfectly legitimate to hold that that service in a legislative assembly is so important in its results, that proof of aptitude and experience must be offered before the claim to represent can be admitted. The argument for restricting the rights of the higher classes to represent the lower classes follows the same line. Only it makes a certain social attitude as a condition precedent to the recognition of the right to represent. Nor can it be said that such a requirement is unnecessary. For aptitude and experience are not more important than the social attitude of a candidate towards the mass of men whom he wishes to represent. Indeed, mere aptitude and experience will be the cause of ruination if they are not accompanied and regulated by the right sort of social attitude. There is no doubt that the social attitude of the higher classes towards the lower classes is not of the right sort. It is no doubt always said to the credit of these communities that they are intellectually the most powerful communities in India. But it can with equal truth be said that they have never utilised their intellectual powers to the services of the lower classes. On the other hand, they have always despised, disregarded and disowned the masses as belonging to a different strata, if not to a different race than themselves. No class has a right to rule another class, much less a class like the higher classes in India. By their code of conduct, they have behaved as the most exclusive class steeped in its own prejudices and never sharing the aspirations of the masses, with whom they have nothing to do and whose interests are opposed to theirs. It is not, therefore, unjust to demand that a candidate who is standing to represent others shall be such as shares the aims, purposes and motives of those whom he desires to represent.

54. The third objection to the system of reserved electorates is that it leads to inefficiency inasmuch as a candidate below the line gets the seat in supersession of a candidate above the line. This criticism is also true. But here, again, there are other considerations which must be taken into account. First of all, as Professor Dicey rightly argues, "it has never been a primary object of constitutional arrangement to get together the best possible Parliament in intellectual capacity. Indeed, it would be inconsistent with the idea of representative government to attempt to form a Parliament far superior in intelligence to the mass of the nation." Assuming, however, that the displacement of the intellectual classes by the candidates belonging to the non-intellectual classes is a loss, that loss will be more than amply recompensed by the natural idealism of the backward communities. There is no doubt that the representatives of the higher orders are occupied with the pettiest cares and are more frequently concerned with the

affairs of their own class than with the affairs of the nation. Their life is too busy or too prosperous and the individual too much self-contained and self-satisfied for the conception of the social progress to be more than a passing thought of a rare moment. But the lower orders are constantly reminded of their adversity, which can be got over only by a social change. The consciousness of mutual dependence resulting from the necessities of a combined action makes for generosity, while the sense of untrained powers and of undeveloped faculties gives them aspirations. It is to the lower classes that we must look for the motive power for progress. The reservation of seats to the backward Hindu communities makes available for the national service such powerful social forces, in the absence of which any Parliamentary government may be deemed to be poorer.

55. *Communal Electorates.*—That some assured representation is necessary and inevitable to the communities in whose interests communal electorates have been instituted must be beyond dispute. At any rate, for some time to come the only point that can be open to question is, must such communal representation be through communal electorates? Communal electorates have been held by their opponents to be responsible for the communal disturbances that have of late taken place in the different parts of the country. One cannot readily see what direct connection there can be between communal electorates and communal disturbances. On the contrary, it has been argued that by satisfying the demand of the Mohamedans, communal electorates have removed one cause of discontent and ill-feeling. But it is equally true that communal electorates do not help to mitigate communal disturbances and may in fact help to aggravate them. For communal electorates do tend to the intensification of communal feeling and that they do make the leaders of the two communities feel no responsibility towards each other, with the result that instead of leading their people to peace, they are obliged to follow the momentary passions of the crowd.

56. The Mohamedans who have been insisting upon the retention of the communal electorates take their stand on three grounds.

57. In the first place they say that the interests of the Mohomedan community are separate from those of the other communities, and that to protect these interests they must have separate electorates. Apart from the question whether separate electorates are necessary to protect separate interests, it is necessary to be certain that there are any interests which can be said to be separate in the sense that they are not the interests of any other community. In the secular, as distinguished from the religious field, every matter is a matter of general concern to all. Whether taxes should be paid or not, if so, what and at what rate; whether national expenditure should be directed in any particular channel more than any other; whether education should be free and compulsory; whether Government lands should be disposed of on restricted tenure or occupancy tenure; whether State aid should be granted to industries; whether there should be more police in any particular area; whether the State should provide against poverty of the working classes by a scheme of social insurance against sickness, unemployment or death; whether the administration of justice is best served by the employment of honorary magistrates, and whether the code of medical ethics or legal ethics should be altered so as to produce better results, are some of the questions that usually come before the Council. Of this list of questions, is there any which can be pointed out as being the concern of the Mohamedan community only? It is true that the Mohamedan community is particularly interested in the question of education and public service. But there again it must be pointed out that the Mohamedan community is not the only community which attaches particular importance to these questions. That the non-Brahmins and the depressed classes are equally deeply interested in this question becomes evident from the united effort that was put forth by all three in con-

nection with the University Reform Bill in the Bombay Legislative Council. The existence of separate interests of the Mohamedan community is therefore a myth. What exists is not separate interests but special concern in certain matters.

58. Assuming, however, that separate interests do exist, the question is, are they better promoted by separate electorates than by general electorates and reserved seats? My emphatic answer is that the separate or special interests of any minority are better promoted by the system of general electorates and reserved seats than by separate electorates. It will be granted that injury to any interest is, in the main, caused by the existence of irresponsible extremists. The aim should therefore be to rule out such persons from the councils of the country. If irresponsible persons from both the communities are to be ruled out from the councils of the country, the best system is the one under which the Mohamedan candidates could be elected by the suffrage of the Hindus and the Hindu candidates elected by the suffrage of the Mohamedans. The system of joint electorates is to be preferred to that of communal electorates, because it is better calculated to bring about that result than is the system of separate electorates. At any rate, this must be said with certainty that a minority gets a larger advantage under joint electorates than it does under a system of separate electorates. With separate electorates the minority gets its own quota of representation and no more. The rest of the house owes no allegiance to it and is therefore not influenced by the desire to meet the wishes of the minority. The minority is thus thrown on its own resources and as no system of representation can convert a minority into a majority, it is bound to be overwhelmed. On the other hand, under a system of joint electorates and reserved seats the minority not only gets its quota of representation but something more. For, every member of the majority who has partly succeeded on the strength of the votes of the minority if not a member *of* the minority, will certainly be a member *for* the minority. This, in my opinion, is a very great advantage which makes the system of mixed electorates superior to that of the separate electorates as a means of protection to the minority. The Mohamedan minority seems to think that the Council is, like the Cardinals' conclave, convened for the election of the Pope, an ecclesiastical body called for the determination of religious issues. If that was true then their insistence on having few men but strong men would have been a wise course of conduct. But it is time the community realised that Council far from being a religious conclave is a secular organisation intended for the determination of secular issues. In such determination of the issues, the finding is always in favour of the many. If this is so, does not the interest of the minority itself justify a system which compels others besides its own members to support its cause?

59. The second ground on which the claim to separate electorates is made to rest is that the Mohamedans are a community by themselves; that they are different from other communities not merely in religion but that their history, their traditions, their culture, their personal laws, their social customs and usages have given them such a widely different outlook on life quite uninfluenced by any common social ties, sympathies or amenities; that they are in fact a distinct people and that they do so regard themselves even though they have lived in this country for centuries. On this assumption it is argued that if they are compelled to share a common electorate with other communities, the political blending consequent upon it will impair the individuality of their community. How far this assumption presents a true picture, I do not stop to consider. Suffice it to say, that in my opinion it is not one which can be said to be true to life. But conceding that it is true and conceding further that the preservation of the individuality of the Mohamedan community is an ideal which is acceptable to that community one does not quite see why communal electorates should be deemed to be necessary

for that purpose. India is not the only country in which diverse races are sought to be brought under a common Government. Canada and South Africa are two countries within the British Empire where two diverse races are working out a common system of government. Like the Hindus and the Mohamedans in India, the British and the Dutch in South Africa and the British and the French in Canada are two distinct communities with their own distinctive cultures. But none has ever been known to object to common electorates on the ground that such a common cycle of participation for the two communities for electoral purposes is injurious to the preservation of their individualities. Examples of diverse communities sharing common electorates outside the Empire are by no means few. In Poland there are Poles, Ruthenians, Jews, White Russians, Germans and Lithuanians. In Latvia, there are Latvians, Russians, Jews, Germans, Poles, Lithuanians and Esthonians. In Esthonia, there are Germans, Jews, Swedes, Russians, Latvians and Tartars. In Czechoslovakia, there are Czechs, Slovaks, Germans, Magyars, Ruthenians, Jews and Poles. In Austria, there are Germans, Czechs and Slovenes; while in Hungary there are Hungarians, Germans, Slovaks, Roumanians, Ruthenians, Croatians, and Serbians. All these groups are not mere communities. They are nationalities each with a live and surging individuality of their own, living in proximity of each other and under a common Government. Yet none of them have objected to common electorates on the ground that a participation in them would destroy their individuality.

60. But it is not necessary to cite cases of non-Moslem communities to show the futility of the argument. Cases abound in which Mohamedan minorities in other parts of the world have never felt the necessity of communal electorates for the preservation of their individuality against what might be termed the infectious contagion of political contact with other communities. It does not seem to be sufficiently known that India is not the only country where Mohamedans are in a minority There are other countries, in which they occupy the same position. In Albania, the Mohamedans form a very large community. In Bulgaria, Greece and Roumania they form a minority and in Yugoslavia and Russia they form a very large minority. Have the Mohamedan communities there insisted upon the necessity of separate communal electorates? As all students of political history are aware the Mohamedans in these countries have managed without the benefit of separate electorates; nay, they have managed without any definite ratio of representation assured to them. In India, at any rate, there is a consensus of opinion, that as India has not reached a stage of complete secularisation of politics, adequate representation should be guaranteed to the Mohamedan community, lest it should suffer from being completely eclipsed from the political field by the religious antipathy of the majority. The Mohamedan minorities, in other parts of the world are managing their affairs even without the benefit of this assured quota. The Mohamedan case in India, therefore, overshoots the mark and in my opinion, fails to carry conviction.

61. The third ground on which it is sought to justify the retention of separate communal electorates of the Mohamedans, is that the voting strength of the Mohamedans in a mixed electorate may be diluted by the non-Mohamedan vote to such an extent that the Mohamedan returned by such a mixed electorate, it is alleged, will be a weakling and instead of being a true representative of the Mohamedans will be a puppet in the hands of the non-Mohamedan communities. This fear, has no doubt the look of being genuine, but a little reasoning will show that it is groundless. If the mass of the non-Muslim voters were engaged in electing a Mohamedan candidate, the result anticipated by the Mohamedans may perhaps come true if the non-Muslims are bent on mischief. But the fact is, that at the time of general election there will be many

non-Mohamedan candidates standing for election. That being the case, the full force of all the non-Muslim voters will not be directed on the Mohamedan candidates. Nor will the non-Mohamedan candidates allow the non-Mohamedan voters to waste their votes by concentrating themselves on the Mohamedan candidates. On the contrary, they will engage many voters, if not all, for themselves. If this analysis is true, then it follows that very few non-Mohamedan voters will be left to participate in the election of the Mohamedan candidates, and that the fear of the Mohamedans of any mass action against Moslem candidates by non-Moslem voters is nothing but a hallucination. That the Mohamedans themselves do not believe in it is evident from what are known as the "Delhi proposals." According to these proposals, which have been referred to in an earlier part of this report, the Mohamedans have shown their willingness to give up communal electorates, in favour of joint electorates, provided the demand for communal Provinces and certain other concessions regarding the representation of the Moslems in the Punjab and Bengal are given to them. Now, assuming that these communal Provinces have no purpose outside their own, and it is an assumption which we must make, it is obvious that the Mohamedan minority in any province must be content with such protection as it can derive from joint electorates. It is therefore a question as to why joint electorates should not suffice without the addition of communal Provinces when they are said to suffice with the addition of communal Provinces. But this consideration apart, if there is any substance in the Moslem view that the watering of votes is an evil which attaches itself to the system of joint electorates, then the remedy in my opinion does no lie in the retention of communal electorates. The remedy lies in augmenting the numbers of the Mohamedan electors to the fullest capacity possible by the introduction of adult suffrage, so that the Mohamedan community may get sufficiently large voting strength to neutralise the effects of a possible dilution by an admixture of the non-Muslim votes.

62. All this goes to show that the case for communal electorates cannot be sustained on any ground which can be said to be reasonable. What is in its favour is feeling and sentiment only. I do not say that feeling and sentiment have no place in the solution of political problems. I realise fully that loyalty to Government is a matter of faith and faith is a matter of sentiment. This faith should be secured if it can be done without detriment to the body politic. But communal representation is so fundamentally wrong that to give in to sentiment in its case would be to perpetuate an evil. The fundamental wrong of the system, has been missed even by its opponents. But its existence will become apparent to any one who will look to its operation. It is clear that the representatives of the Muslims give law to the non-Muslims. They dispose of revenue collected from the non-Muslims. They determine the education of the non-Muslims, they determine what taxes and how much the non-Muslims shall pay. These are some of the most vital things which Muslims as legislators do, whereby affect the welfare of the non-Muslims. A question may be asked by what right can they do this? The answer, be it noted, is not by right of being elected as representatives of the non-Muslims. The answer is by a right of being elected as the representatives of the Muslims! Now, it is a universally recognised canon of political life that the Government must be by the consent of the governed. From what I have said above communal electorates are a violation of that canon. For, it is government without consent. It is contrary to all sense of political justice to approve of a system which permits the members of one community to rule other communities without their having submitted themselves to the suffrage of those communities. And if as the Mohamedans allege that they are a distinct community with an outlook on life widely different from that of the other communities, the danger inherent in the system becomes too terrible to be passed over with indifference.

63. Such are the defects in the existing structure of the Council. It was framed by the Southborough Committee in 1919. The nature of the framework prepared by that Committee was clearly brought forth by the Government of India in their Despatch No. 4 of 1919 dated 23rd April, 1919, addressed to the Secretary of State in which they observed:—

> "2. Before we deal in detail with the report (of the Southborough Committee) one preliminary question of some importance suggests itself. As you will see, the work of the Committee has not to any great extent been directed towards the establishment of principles. In dealing with the various problems that came before them they have usually sought to arrive at agreement rather than to base their solution upon general reasonings."

64. My colleagues have not cared to consider the intrinsic value of the framework as it now stands. They have no doubt recommended that the system of nominations should be done away with and in that I agree with them. But excepting that they have kept the whole of the electoral structure intact, as though it was free from any objection. In this connection I differ from them. As I have pointed out the whole structure is faulty and must be overhauled. I desire to point out that the object of the Reforms are embodied in the pronouncement of August, 1917, declares the goal to be the establishment of self-governing institutions. The electoral structure then brought into being was only a half-way house towards it and was justified only because it was agreed that a period of transition from the rule of the bureaucracy to the rule of the people, was a necessity. This existing electoral structure can be continued only on the supposition that the present system of divided government is to go on. The existing system of representation would be quite incompatible with a fully responsible Government and must therefore be over-ruled.

65. There is also another reason why the present system of representation should be overhauled. Representative government is everywhere a party government. Indeed a party government is such a universal adjunct of representative government that it might well be said that representative government cannot function except through a party government. The best form of party government is that which obtains under a two-party-system both for ensuring stable as well as responsible government. An executive may be made as responsible as it can be made by law to the legislature. But the responsibility will only be nominal if the legislature is so constituted that it could not effectively impose its will on the executive. A stable government requires absence of uncertainty. An executive must be able to plan its way continuously to an ordered scheme of policy. But that invokes an unwavering support of a majority. This can be obtained only out of a two-party-system. It can never be obtained out of a group system. Under the group system the executive will represent not a general body of opinion, but a patchwork of doctrines held by the leaders of different groups who have agreed to compromise their integrity for the sake of power. Such a system can never assure the continuous support necessary for a stable government since the temptation to reshuffling the groups for private advantage is ever present. The existing council by reason of the system of representation is, to use the language of Burke, "a piece of joinery so crossly indented and whimsically dovetailed,' a piece of diversified mosaic, a tessellated pavement without cement, patriots and courtiers, friends of government and open enemies. This curious show of a Legislature utterly unsafe to touch and unsure to stand on" can hardly yield to a two-party-system of government, and without a party system there will neither be stable government nor responsible government. The origin of the group system must be sought in the formation of the electorates. For, after all, the electorates are the moulds in which the Council is cast. If the Council is to be remodelled so that it may act with efficiency, then it is obvious that the mould must be recast.

66. In making my suggestions for the recasting of the electoral system I have allowed myself to be guided by three considerations: (1) Not to be led away by the fatal simplicity of many a politician in India that the electoral system should be purely territorial and should have no relation with the social conditions of the country. (2) Not to recognise any interest, social or economic, for special representation which is able to secure representation through territorial electorates. (3) When any interest is recognised as deserving of special representation, its manner of representation shall be such as will not permit the representatives of such interest the freedom to form a separate group.

67. Of these three considerations the second obviously depends upon the pitch of the franchise. In another part of this Report I have recommended the introduction of adult suffrage. I am confident that it will be accepted. I make my recommendations therefore on that basis. But in case it is not, and if the restricted franchise continues, it will call for different recommendations, which I also propose to make. For the reasons given above and following the last mentioned consideration I suggest that:—

I. If adult suffrage is granted there shall be territorial representation except in the case of the Mohamedans, the Depressed Classes, and the Anglo-Indians.

II. If the franchise continues to be restricted, all representation shall be territorial except in the case of the Mohamedans, the Depressed Classes, Anglo-Indians, the Marathas and the allied castes and labour.

III. That such special representation shall be by general electorates and reserved seats and of labour by electorates made up of registered trade unions.

68. From these suggestions it will be seen that I am for the abolition of all class electorates, such as those for Inamdars and Sardars, (2) Trade and Commerce, whether Indian or European, and (3) Industry and merge them in the general electorates, and (4) Indian Christians. There is nothing to prevent them from having their voice heard in the Councils by the ordinary channel. Secondly, although I am for securing the special representation of certain classes, I am against their representation through separate electorates. Territorial electorates and separate electorates are the two extremes which must be avoided in any scheme of representation that may be devised for the introduction of a democratic form of government in this most undemocratic country. The golden mean is the system of joint electorates with reserved seats. Less than that would be insufficient, more than that would defeat the ends of good government. For obvious reasons I make an exception in the case of the European community. They may be allowed to have their special electorates. But they shall be general electorates and not class electorates.

Chapter 3.

DISTRIBUTION OF SEATS.

I.—Distribution of Seats among the Minorities.

69. The quota of seats assigned by my colleagues to the different minorities is given below in the tabular form:—

Minority.	*No. of seats out of* 140. *General*	+ *Special.*
I. Europeans	2	5
II. Anglo-Indians	2	*Nil*
III. Indian Christians	1	*Nil*
IV. Depressed Classes	10	*Nil*
V. Mohamedans	43	2

70. From this table it will be seen that in distributing the seats among the different minorities, my colleagues have not acted upon any uniform principle. Nor does it appear that they have striven to do justice to the minorities concerned. This is clear if we compare the treatment given by my colleagues to the Mohamedans with the treatment they have given to the Depressed Classes. Mohamedans form 19 per cent. of the population of the Presidency. My colleagues have proposed to give them over 31 per cent. of the total representation provided for the Legislative Council. The Depressed Classes on the other hand who form according to the most conservative estimate 8 per cent. of the total population of the Presidency are allowed only 7 per cent. of the total seats in the Council. The reasons for this discrimination are difficult to comprehend. Of the two minorities the Mohamedan minority is undoubtedly stronger in numbers, in wealth and in education. Besides being weak in numbers, wealth and education, the Depressed Classes are burdened with disabilities from which the Mohamedans are absolutely free. The Depressed Classes cannot take water from public watering places even if they are maintained out of public funds; the Mohamedans can. The Depressed Classes, by virtue of their untouchability, cannot enter the Police, the Army and the Navy, although the Government of India Act lays down that no individual shall be denied his right to any public office by reason of his caste, creed or colour. The Mohamedans have not only an open door in the matter of public service, but that in certain departments they have secured the largest share. The Depressed Classes are not admitted in Public schools even though they are maintained out of public money; there is no such bar against the Mohamedans. The touch of a Depressed Class man causes pollution; the touch of a Mohamedan does not; that trade and industry are open to a Mohamedan while they are closed to a man from the Depressed Classes. The Mohamedan does not bear the stigma of inferiority as does a man from the Depressed Classes with the result that the Mohamedan is free to dress as he likes, to live as he likes and to do what he likes. This freedom the Depressed Class man is denied. A Depressed Class man may not wear clothes better than the villagers even though he may have the economic competence to pay for its cost. He must live in a hut. A Depressed Class man may not make much display of wealth and splendour even on ceremonial occasions and may certainly not take the bridegroom on a horse in procession through the main streets. Any act contrary to the customary code or beyond his status is bound to be visited by the wrath of the whole body of villagers amongst whom he happens to live. The Depressed Class man is far oftener subject to the tyranny of the majority than the Mohamedan is. The reason is that the Mohamedan who has all the elementary rights of a human being accorded to him, has no cause for quarrel against the majority, except when a religious issue comes to the front. But the position of the Depressed Class man is totally different. His life which is one incessant struggle for the acquisition of the rights of a human being, is a constant challenge to the majority which denies him these rights. The result is that he is constantly in antagonism with the majority. This is not all. If on any occasion the Mohamedan is visited by the tyranny of the majority, he has on his sides the long arm of the Police and the Magistracy. But when the Depressed Class man is a victim of the tyranny of the majority, the arm of the Police or of the Magistracy seldom comes to his rescue. On the contrary, it works in league with the majority to his detriment, for the simple reason that the Mohamedan can count many of their kith and kin in the Police and the Magistracy of the Province; while the Depressed Classes have no one from them in these departments. And be it noted that the Depressed Classes have not merely to bear the brunt of the orthodox Hindu force. It has also to count against the Mohamedans. It is ordinarily supposed that the Mohamedan is free from social

prejudices of the Hindus against the Depressed Classes. Nothing can be a greater error than this. Leaving aside the urban areas, the Mohamedan in the rural parts is as much affected by the poison as the Hindu. The fracas that took place at Harkul, a village in the Mangaon Taluka of the Kolaba District, is an instance in point. In this district the Depressed Classes launched a campaign of social elevation and resolved to give up certain unclean practices which have marked them out as persons of inferior status. The Hindus of the district, who had formerly preached to these people the abandonment of these unclean practices as a necessary condition of their uplift, turned upon these poor people and tyrannised them by bringing to bear upon them a social and economic boycott. But it was never expected that the Mohamedans of the district would follow their Hindu neighbours. On the contrary it was the hope of the Depressed Classes that in their struggle with the touchable Hindus the Mohamedans would act as their friends. But these hopes of theirs were dashed to pieces. For, it was soon found that the Mohamedans, although they did not observe untouchability, were as much infected as the Hindus with the noxious belief that the Depressed Classes were born to an inferior social status and that their attempt to raise themselves above it by giving up their unclean habits was an affront and an insult which required to be put down. As a result many were the fights that took place between the Mohamedans and the Depressed Classes of the district, in one of which, at Harkul, a Depressed Class man actually lost his life.

71. It is therefore clear that the problem of the Depressed Classes is far greater than the problem of the Mohamedans. The Mohamedans may be backward in the race, although they are so forward that in education at least they are second only to the advanced Hindus. But they are certainly not handicapped, so that with effort and encouragement they can hope to rise. The Depressed Classes, on the other hand, are not merely backward, they are also handicapped; so that no effort or encouragement will enable them to rise unless the handicap is first removed. That being the difference between the two, whatever degree of political power that may be necessary for the Mohamedans to change their backward state, the Depressed Classes will require twice as much if not more to do so. Yet my colleagues have reversed the proportion of their representation. The Mohamedans, who are 19 per cent. and who form a strong minority, are given 31 per cent. of seats in the Council, while the Depressed Classes, who form 8 per cent. of the population on the most conservative estimate, are given only 7 per cent. of the seats in the Council which, in fact, is 1 per cent. less than their population ratio.

72. There is a view that the problem of the Depressed Classes is a social problem and that its solution must be sought for in the social field. I am surprised that this view prevails even in high quarters. I am afraid that those who hold this view forget that every problem in human society is a social problem. The drink problem, the problem of wages, of hours of work, of housing, of unemployment insurance are all social problems. In the same sense the problem of untouchability is also a social problem. But the question is not whether the problem is a social problem. The question is whether the use of political power can solve that problem. To that question my answer is emphatically in the affirmative. True enough that the State in India will not be able to compel touchables and untouchables to be members of one family whether they liked it or not. Nor will the State be able to make them love by an Act of the Legislature or embrace by order in Council of the Executive. But short of that the State can remove all obstacles which make untouchables remain in their degraded condition. If this view is correct, then no community has a greater need for adequate political representation than the depressed classes.

73. My colleagues nowhere explain why the Mohamedan minority should get 12 per cent. more than its population ratio and why the Depressed Classes should not get even the share that is due to them on the basis of their population. It is noteworthy that the Mohamedan witnesses who pleaded for the excess of their representation did not claim it on the ground, as one might have expected, that it was necessary to ensure their progress or their well-being. Their only ground was that the Mohamedans were the descendants of a ruling class and that they required this excessive representation because without it, they feared that the community would suffer in importance and influence. From this it will be seen that the Mohamedan claim for such excessive representation proceeds not on the basis of adequacy but on the basis of supremacy. I am strongly of opinion that in any democratic form of government all communities must be treated as of equal political importance and that there should be no room left for any one community to claim that it is *UBER ALLES*. When any one said that his community was important and should receive fair and adequate representation the claim was entitled to the sympathetic consideration of all. But when any one urged that his community was specially important and should therefore receive representation in excess of its fair share, the undoubted and irresistible implication was that the other communities were comparatively inferior and should receive less than their fair share. That is a position to which naturally the other communities will not assent. The earlier therefore the Mohamedan community is disabused of this extravagant notion, the better it will be for the future of the community. For there is no benefit in an advantage which not being willingly conceded by the other communities has perpetually to be fought for. On the contrary it may result in positive harm to the Mohamedan community by sowing the seeds of estrangement and perhaps of positive antipathy between it and the other communities concerned.

74. The Mohamedan's is not the only case of a ruling class which has suffered a fall in its position. The French in Canada and the Dutch in South Africa are other instances where a class fell from its position of a ruling class to that of a subject class. But neither the French in Canada nor the Dutch in South Africa put forth claims to extravagant representation in order to be able to maintain their former position as rulers. Nor is such a consideration shown to the Mohamedan minorities in other parts of the world. The Mohamedan minorities in Albania, Roumania, Greece, Bulgaria are the remnants of what was once a ruling race. Yet in none of these countries have they claimed a royal share of representation. The Mohamedan claim for representation according to the influence is not only not heard of but is quite foreign to the system of representative government. The landowners, the capitalists, and the Priests have an immense influence in every society, but no one has ever conceded that these classes should be given an immense share of representation. There is therefore no reason why the Mohamedan claim should be recognised when claims of similar nature have been dismissed elsewhere.

75. Whatever may have been their position before the advent of British rule in India—and there again it must not be forgotten, that if the Mohamedans have ruled India for five centuries, the Hindus have ruled for countless centuries before them and even after them—the safest course is to proceed on the basis that as a result of the British conquest all communities stand on a common level and pay no heed to their political past. Such an attitude far from being unjust will be perfectly in keeping with the sentiments expressed by the Law Commissioners who drafted the Indian Penal Code in their address to the Secretary of State. Therein they observed:—

> "Your Lordship in Council will see that we have not proposed to except from the operation of this Code any of the ancient sovereign

houses of India residing within the Company's territories. Whether any such exception ought to be made is a question which, without a more accurate knowledge than we possess of existing treaties, of the sense in which those treaties have been understood, of the history of negotiations, of the temper and of the power of particular families, and of the feeling of the body of the people towards those families, we could not venture to decide. We will only beg permission most respectfully to observe that every such exception is an evil; that it is an evil that any man should be above the law; that it is still greater evil that the public should be taught to regard as a high and enviable distinction the privilege of being above the law; that the longer such privileges are suffered to last, the more difficult it is to take them away; that there can scarcely ever be a fairer opportunity of taking them away than at the time when the Government promulgates a new Code binding alike on persons of different races and religion; and that we greatly doubt whether any consideration except that of public faith solemnly pledged, deserves to be weighed against the advantages of equal justice."

76. These are words of great wisdom and I am sure that words of greater wisdom have not been uttered for the guidance of those in charge of the public affairs of India. Nor is their wisdom restricted to the occasion on which or the purpose in relation to which they were uttered. I have no doubt that they apply to the present occasion with equal if not greater force. Indeed using the language of the Law Commissioners, I am led to say that it is an evil that the constitutional law of the country should recognise that any one community is above the rest; that it is a still greater evil that sections of the public should be taught to weigh themselves in the scales of political importance in such a manner as to lead one to look up to and the other to look down upon; that the longer such notions are suffered to last the more difficult it is to eradicate them and that there can scarcely ever be a fairer opportunity for dispelling them than at the time when Parliament promulgates a new code of constitutional law binding alike on persons of different races and religion.

77. Equal treatment of all the minorities in the matter of representation is only a part of the problem of the representation of minorities. To determine a satisfactory quantitative measure for the distribution of seats is another and a more important part of the problem. But this is a most controversial question. Of the two opposing theories one is that the representation of a minority should be in a strict proportion to its population. The other theory which is strongly held by the minorities is that such representation must be adequate. I do not think that the arithmetical theory of representation can be agreed to. If the Legislative Council was a zoo or a museum wherein a certain number of each species was to be kept, such a theory of minority representation would have been tolerable. But it must be recognised that the Legislative Council is not a zoo or a museum. It is a battle ground for the acquisition of rights, the destruction of privileges and the prevention of injustice. Viewed in this light a minority may find that its representaion is in full measure of its population yet it is so small that in every attempt it makes to safeguard or improve its position against the onslaught of an hostile majority it is badly beaten. Unless the representation of minorities is intended to provide political fun the theory of representation according to population must be discarded and some increase of representation beyond their population ratio must be conceded to them by way of weightage.

78. To recognise the necessity of weightage is no doubt important. But what is even of greater importance is to recognise that this weightage must be measured out to the minorities on some principle that is both intelligible and reasonable. For it must be recognised that the

minorities under the pretext of seeking adequate protection are prone to make demands which must be characterised as preposterous. To avoid this we must define what we mean by adequacy of representation. No doubt adequacy is not capable of exact definition, but its indefiniteness will be considerably narrowed if we keep before our mind certain broad considerations. First of all a distinction must be made in the matter of minority representation between adequacy on the one hand and supremacy on the other. By supremacy, I mean such a magnitude of representation as would make the minority a dictator. By adequacy of representation I mean such a magnitude of representation as would make it worth the while of any party from the majority to seek an alliance with the minority. Where a party is compelled to seek an alliance with a minority, the minority is undoubtedly in the position of a dictator. On the other hand where a party is only drawn to seek an alliance with the minority, the minority is only adequately represented. The first thing, therefore, that should be kept in mind in the matter of the allotment of seats to minorities is to avoid both the extremes— inadequacy as well as supremacy. These extremes can in my opinion be avoided if we adopt the rule that minority represenation shall, in the main, be so regulated that the number of seats to which a minority is entitled will be a figure which will be the ratio of its population to the total seats multiplied by some factor which is greater than one and less than two.

79. This principle, it is true, merely defines the limits within which the representation of a minority must be fixed. It still leaves unsettled and vague with what this multiplier should vary. My suggestion is that it should vary with the needs of the particular minority concerned. By this method we arrive at a principle for measuring out the weightage to the minorities which is both intelligible and reasonable. For, the needs of a minority are capable of more or less exact ascertainment. There will be general agreement that the needs of a minority for political protection are commensurate with the power it has to protect itself in the social struggle. That power obviously depends upon the educational and economic status of the minorities. The higher the educational and economic status of a minority the lesser is the need for that minority of being politically protected. On the other hand the lower the educational and economic status of a minority, the greater will be the need for its political protection.

80. Taking my stand on the sure foundation of the principle of equality on the one hand and the principle of adequacy on the other I feel I must demur to the allotment of seats proposed by my colleagues to the different minorities. My proposal is that out of 140 seats the Mohamedans should have 33 and the Depressed Classes 15. This gives the Mohamedans 23 per cent. and the Depressed Classes 10.7 per cent. of the total seats in the Council. By this, the Mohamedans get nearly 4 per cent. and the Depressed Classes 2 per cent. above their respective population ratios. This much weightage to the respective communities is, in my opinion, reasonable and necessary and may be allowed. Besides my proposal has one thing in its favour and that is it keeps the ratio of Mohamedan representation unaltered. In the present Council, the Mohamedans have 23 per cent. of the total representation. As a result of my proposal they will have the same ratio of representation in the new Council.

81. In view of the fact that some people disfavour, I do not say oppose, the degree of representation I have allowed to the Depressed Classes, I think it is necessary that I should clear the cloud by additional explanation. There is no doubt that the initial representation allowed to the Depressed Classes was grossly unfair. The authors of the Joint Report expressly stated (paragraph 153) " we intend to make the best arrangements we can for (the) representation (of the Depressed Classes). But

this promise was thrown to the wind by the Southborough Committee which was subsequently appointed to devise franchise, frame constituencies and to recommend what adjustments were needed to be made in the form of the proposed popular Government as a consequence of the peculiar social conditions prevalent in India. So grossly indifferent was the Southborough Committee to the problem of making adequate provision for safeguarding the interests of the Depressed Classes that even the Government of India which was not over-particular in this matter felt called upon in paragraph 13 of their Despatch on the Report of the Southborough Committee to observe: "We accept the proposals (for non-official nomination) generally. But there is one Community whose case appears to us to require more consideration than the Committee gave it. The Report on Indian Constitutional Reforms clearly recognised the problem of the Depressed Classes and gave a pledge respecting them. The castes described as "Hindus—others" in the Committee's Report though they are defined in varying terms, are broadly speaking all the same kind of people. Except for differences in the rigidity of their exclusion they are all more or less in the position of the Madras Panchamas, definitely outside that part of the Hindu Community which is allowed access to their temples. They amount to about one-fifth of the total poulation, and have not been represented at all in the Morley-Minto Councils. The Committee's Report mentions the Depressed Classes twice, but only to explain that in the absence of satisfactory electorates they have been provided for by nomination. It does not discuss the position of these people of their capacity for looking after themselves. Nor does it explain the amount of nomination which it suggests for them. Paragraph 24 of the Report (of the Franchise Committee) justifies the retriction of the nominated seats on grounds which do not suggest that the Committee were referring to the Depressed Classes. The measure of representation which they proposed for this Community is as follows:—

Province.	Total population in millions.	Population of Depressed classes in millions.	Total Seats.	Seats for the Depressed Classes.
Madras	39·8	6·3	120	2
Bombay	19·5	·6	113	1
Bengal	45·0	9·9	127	1
United Provinces	47·0	10·1	120	1
Punjab	19·5	1·7	85	—
Bihar and Orissa	32·4	9·3	100	1
Central Provinces... ...	12·0	3·7	72	1
Assam	6·0	·3	54	—
	221·4	41·9	791	7

These figures speak for themselves. It is suggested that the one-fifth of the entire population of British India should be allotted seven seats out of practically 800. It is true that in all the councils there will be roughly a one-sixth proportion of officials who may be expected to bear in mind (?) the interests of the Depressed: but that arrangement is not, in our opinion, what the Report on Reforms aims at. The authors stated that the Depressed Classes should also learn the lesson of self-protection. It is surely fanciful to hope that this result can be expected from including a single member of the Community in an assembly where there are 60 to 90 Caste Hindus. To make good the principles of paragraphs 151, 152, 154 and 155 of the Report we must treat the out-castes more generously. . . . . ."

82. Even the Joint Select Committee recognised that the Depressed Classes were unjustly treated in the matter of representation by the Southborough Committee. For the Committee in its Report felt bound to observe that " the representation proposed for the Depressed Classes is inadequate. Within this definition are comprised, as shown in the Report of the Franchise Committee, a large proportion of the whole poulation of India. They think that the Government of India should, as it advises, be instructed to give such classes a larger share of representation by nomination, regard being had to the numbers of Depressed Classes in each Province, and after consultation with the Local Governments. This representation should, if necessary, be in addition to, but not in diminution of, the general electorate." All this of course was of no avail and the wrong done by the Southborough Committee to the Depressed Classes remained unredressed. The present is not an attempt to give excessive representation to the Depressed Classes. It is only an attempt to rectify the wrong done. Nor can it be said that in suggesting the measure of representation it is open to the objection of being extravagant. For, even the Muddiman Committee which said that there was " a very general recognition of the fact that it is desirable that both these interests (i.e., the labouring classes and the Depressed Classes) should receive further representation " and expressed itself as being " in agreement with this view " proposed to give them 11 seats in a Legislative Council of 113. If 11 seats out of 113 was a reasonable allotment, then the allotment of 15 out of 140 must be admitted to be very moderate. The quota of 15 appears excessive only because the initial quota was small. Those who object to the quota of 15 because it is out of proportion to the existing quota forget that the initial quota of seats which they are adopting as the standard measure is neither just nor proper.

83. There is one other matter which needs to be cleared up. My colleagues in paragraph 16 of their Report in which they discuss the question of the allotment of seats to the Mohamedan community say, " Two of our members, Sirdar Mujumdar and Dr. Ambedkar, are of the opinion that this arrangement can stand only so long as the Lucknow pact stands as regards all provinces." My colleagues have misunderstood me and have therefore misrepresented me. What I wanted to point out was that as they had not justified communal electorates or the number of seats to be given to the Mohamedans it would be better if they stated in their report that this was in pursuance of the Lucknow pact. The way in which my colleagues have reported me seems to suggest that I support the Lucknow pact. I take this opportunity to say that the suggestion is quite unwarranted.

II.—Geographical Distribution of Seats.

84. My difference with my colleagues is not confined only to the question of allotment of seats to the different minorites. It extends also to the question of distribution of seats among the different constituencies. One unpleasant feature of the Council as now constituted is the over-representation of some parts and an under-representation of the rest. The enormous extent of the evil is made clear by the following figures:—

	Area in Square miles.	Population.	Land Revenue demand for 1925–26.	Seats in the Council at present.
			Rs.	
Maharashtra ...	47,854	8,536,217	2,18,18,155	25
Gujerat	10,118	2,958,849	99,41,264	16
Karnatak	18,870	3,188,523	82,91,225	8
Sind	46,506	3,279,377	1,03,85,031	19

85. How glaring are the inequalities becomes evident from the above table. Taking population as the basis, Maharashtra and Karnatak are grossly under-represented. Adopting representation of Gujerat as the standard, Maharashtra ought to be allowed 48 seats and Karnatak 17. Even taking revenue as the basis of distribution, Maharashtra and Karnatak have undoubtedly been treated quite unfairly. For, on that basis also Maharashtra is entitled to 32 and Karnatak 15. This demand for equal electoral power is not a mere sentimental demand or a demand for exact electoral symmetry. It has also behind it ample theoretical justification. For, in a system in which the value of a vote is high in one constituency and low in another, it is open to objection that every member of the community has not an equal share with each of the rest of the people in the choice of their rulers. But even if the principle of exact equivalence of all votes be not treated as a fundamental principle of political justice, yet the differences of this kind do not fail to produce the evil consequences of the over-representation of one part of the country or one set of opinions or interests at the expense of the other. Experience has shown that the existing distribution of seats has unduly diverted the centre of gravity of legislative and executive action to certain parts of the Presidency to the prejudice of other parts of the Presidency, with the result that the latter have unintentionally been deprived of an adequate share of consideration and attention from the Government. From this practical point of view the existing distribution of seats is a grievance, the justice of which cannot be denied. As matters now stand Karnatak and Maharashtra can never exercise in this Proviince that influence on the Government to which they consider themselves entitled by reason of their numbers. This is a substantial grievance which must be keenly felt as indicated by the evidence from Karnatak. This grievance is bound to increase as the responsible character of the Legislative Council increases and with it the influence which it will exercise upon the conduct of public affairs. There is, therefore, too much reason to fear that instead of dying out the bitterness of feeling will become more and more acute. It is, therefore, proper that at a time when we are overhauling the machinery of Government with a view to make it a representative and a responsible government this grievance should also be redressed.

86. The evil of over-representation of some parts of this Presidency at the expense of other parts was due to the fact that the Southborough Committee acted quite capriciously and refused to follow any definite principle in the matter of the distribution of seats. I am glad to find that my colleagues have sought to follow a uniform principle in the matter of distribution of seats as far as possible. But my complaint is that they have taken the worst possible principle as the basis of the distribution of seats. Contributions to the exchequer, electors on the roll and population in the constituency are the three conceivable tests that can be adopted as the basis for the distribution of seats. Of these three the test of the electors is the most unjust and indefinite. In the first place where the franchise is so restricted as we now have it means the rule of wealth. It means that if any particular area on any arbitrary test of property qualification does not produce the basic quota of electors it should go without representation. That this must be inevitable consequence of following the test of electors is clearly brought out in the distribution proposed by the Majority for the Depressed Classes, according to which the Depressed Classes of some parts have enormous representation while those of the other part of the Presidency have no representation at all. A theory which produces such an absurd result must be regarded as indefensible and must be ruled out. Revenue is a better test than the tests of electorates. For it may be argued that the power to influence government should be commensurate with the revenue paid to Government. This test must even be rejected as being deceptive and inadequate, owing to the fact that as all revenue

might not be paid when it is earned, it would be difficult to know the true revenue of a state. A constituency in which a large revenue is earned may suffer in distribution of seats because it is paid in another. But the most fatal objection to both these tests is that the State does not exist for the benefit of the electors or the taxpayers. Nor does the State limit its coercive action to them. Its jurisdiction extends over all the people who are its subjects irrespective of the question whether or not he is a taxpayer or an elector. From that it follows that the population is the only test for a just and proper distribution of seats. That is the test applied in England and in all countries which have a representative system of government, and I recommend that the seats for the Bombay Legislative Council should be distributed on that basis.

III.—Other Aspects of the Distribution of Seats.

87. The want of principle which is noticeable in the distribution of seats among the minorities as proposed by my colleagues is also noticeable in the distribution of seats they have proposed between Capital and Labour, and between Landlords and Tenants. To capital as represented through Commerce and Industry they have given 11 seats, while to labour they give only four. To tenants they give none except what they can scrape through in the general election; while to the landlords they give five. But this is not correct for if we take into consideration the Sind members and others from the Presidency, the seats to the landlords in the Council might easily come up to forty. Nor can I say that my colleagues have paid sufficient attention to the question of the proper distribution of seats between urban and rural areas. The Legislature is at present too much at the mercy of the rural classes and there is a great danger of governmental powers being exploited in the name of the agriculturists for legalising dangerous fads such as permanent settlements, cheap irrigation and free forests. If such fads are to be kept out of the statute book it is necessary to increase the representation of the urban classes whose representation is not commensurate with their ability or their contribution. It would have been better if my colleagues had left the task of a proper distribution of seats between the different parts of the Presidency to a separate Committee. I cannot say they have succeeded in doing justice to the weaker parties. I would suggest that a separate committee should be appointed to deal with this problem.

IV.—Seats and Residential Qualification.

88. Under rule 6 (1) (*b*) of the Bombay Electoral Rules, a residential qualification is prescribed for candidates for election to the Legislative Council. The rule lays down that "No person shall be eligible for election as a member of the Council to represent a general constituency unless he has for the period of six months immediately preceding the last date fixed for the nomination of candidates in the constituency, resided in the constituency or in a division any part of which is included in the constituency." The rule has been interpreted in this Presidency to mean that actual or habitual residence in the constituency (and not merely a place of residence or occasional visits to it) is necessary before a candidate can stand for election from a particular constituency. Before I give my own opinion on this question I would like to state briefly the history of this restriction so far as this Presidency is concerned. Paragraph 84 of the Joint Report commented on the fact that a noteworthy result of the electoral system then existing was the large percentage of the members of the legal profession who succeeded at elections and went on to point out that so great a predominance of men of one calling in the political field was clearly not in the interests of the general community and suggested that in framing the new constituencies an important object to be borne in mind was to ensure that men of other classes and occupations found a sufficient number of seats in the councils and that it was possible that this could be done by prescribing certain

definite qualifications for rural seats. The question was carefully examined by the Southborough Committee, who in paragraph 29 of their report referred to the fact that some of the local Governments, namely, those of the United Provinces, Behar and Orissa and Assam did not press for the insertion of the residential qualification, while the Governments of Bengal, Bombay, Madras and the Punjab held that it would be detrimental to the interests of a large proportion of the new electorate to admit as candidates persons who were not resident in the areas they sought to represent. The majority of the Southborough Committee were on principle opposed to the residential qualification, but they resolved, by way of a compromise, to impose the restriction in the Central Provinces, Bombay and the Punjab but not in the remaining provinces. The Government of India, in expressing their views upon the recommendations of the Southborough Committee, accepted those recommendations, but pointed out that the Committee's treatment of the question had placed them in some difficulty in that while the Committee accepted the views of some of the local Governments in favour of the restriction, they discarded the views of some others who equally pressed for it. The Joint Parliamentary Committee on the Government of India Bill recommended that the compromise suggested by the Franchise Committee should be accepted. This was done and the residential qualification was imposed only in the Central Provinces, Bombay and the Punjab. I would point out that subsequent to this the residential qualification was done away with in the Punjab in the revision of the rules which preceded the General Elections of 1923. The Punjab Government themselves in the opinion which they gave to the Muddiman Committee stated that for the first general elections the residential qualification gave the rural representatives an *entree* from which they had not been dispossssed, and there appeared to be no adequate reason for restoring the qualification. The position at present therefore is that Bombay and the Central Provinces are the only provinces in which the residential qualification still exists. In the Central Provinces the restriction is not interpreted as strictly as it is in this Presidency. It is, in my opinion, difficult to justify the retention of this restriction in this the most advanced province in India when provinces much more backward have felt no necessity for it. The retention of this qualification is, in my opinion, to some extent responsible for the election of inferior men to the Councils and for the keeping out of the Councils men of position, ability and proved political capacity who are mostly found in the larger urban areas and who by the existence of the qualification are prevented from seeking election anywhere else if for some reason they are unable to secure election from their own residential area. I therefore recommend that the residential qualification should now be abolished so far as this Presidency is concerned.

Chapter 4.

LUCKNOW PACT.

89. I am aware that my recommendations regarding the substitution of joint electorates for communal electorates and the distribution of seats conflict with the terms of the Lucknow Pact in so far as they affect the representation of the Mohamedan community. The representation of the Mohamedan community as settled under the rules framed in 1919 was largely based upon what is known as the Lucknow Pact. This pact embodies an agreement arrived at in 1917 at Lucknow between the Moslem League and the Congress, the former acting on behalf of the Mohamedans and the latter on behalf of the Hindus. It gave to the Mohamedans communal electorates and a varying proportion of seats in the Provincial and Central Legislature. I realise that the views I have put forth on the representation of the Mohamedan community are subversive of this agreement, and I feel that it is

incumbent upon me to state why I think that this agreement should be scrapped.

90. My first argument is that the settlement embodied in the Lucknow Pact is a wrong settlement. This was admitted by all the Local Governments. The Government of India in their Despatch reviewing the recommendations of the Franchise Committee to the Secretary of State, reported:—"We note that Local Governments were not unanimous in subscribing to the compact. The Government of Madras framed their own proposals for Muhamedan representation without regard to it. The Bombay Government, while adopting the compact, did not rule out from discussion a scheme of representation upon a basis of population. The Chief Commissioner of the Central Provinces was opposed to separate Muhamedan electorates and considered that the percentage proposed in the compact was 'wholly disproportionate to the strength and standing of the community.' The Chief Commissioner of Assam thought it was a mistake even from a Muslim point of view to give that community representation in excess of their numerical proportion." Nor did the Government of India differ from this view generally held by the Provincial Governments. Evaluating the results of the Lucknow Pact in the different Provinces, they observed, "the result is that while Bengal Mohammedans get only three-quarters and the Punjab Muhammadans nine-tenths of what they would receive upon a population basis, the Muhammadans of other provinces have got good terms and some of them extravagantly good. We cannot ourselves feel that such a result represents the right relation either between Muhammadans in different provinces, or between Muhammadans and the rest of the community." Sir William Vincent, in a note of dissent, went so far as to say, "In my view . . . we should proceed without regard to the details of the Lucknow Settlement to fulfil our own pledges to the Mohamedans in what we ourselves think is the best way."

91. The wrong in the Lucknow Pact is not so much that it treated the Muhammedans in the different Provinces in a dissimilar manner, providing for them generously in some and niggardly in others. This is comparatively speaking a small matter. The principal defect in the Lucknow Pact is that in allotting the seats to the Mohamedans it did not take into consideration the effect it will have upon other interests. The framers of the pact, as pointed out by the Government of India, failed to remember that whatever advantage is given to the Mohamedans is taken away from some other interest or interests. Sir William Vincent, too, was careful enough to point this out. He also said in his minute of Dissent, "The compact meets with much more acceptance than criticism at the present time; but hereafter, when the value of votes and representation comes to be realised, it must be expected that the interests which are hard hit by it will complain with some injustice that the Government of India should have endorsed it." The extent to which this prediction has been realised is remarkable, and the universal dissatisfaction that is felt with the result of the Lucknow Pact is more than sufficient testimony to show that settlement embodied in the Lucknow Settlement is a wrong settlement. Now there can be nothing improper in asking that what is wrongly settled shall be re-settled. Such a demand is bound to meet with opposition from the Mohamedan community. Having obtained representation on an extravagant scale, they are sure to take their stand on precedent and past rights. But as Thomas Paine pointed out, the error of those who reason by precedents drawn from antiquity respecting their rights is that they would not take that time as the starting point when no vested rights existed. If they did they would realise that rights, far from being immutable, are historical accidents and are therefore liable to readjustment from time to time. This must be so, for all political and social progress is based upon the maxim that wrong cannot have a legal descent and that what is not rightly settled is never settled.

This is not the only instance in which a pact like the Lucknow Pact is sought to be revised. The Act of Union between Ireland and England was also a pact of the same sort. It certainly had a far greater binding force than the Lucknow Pact. In fact it was regarded as a treaty which guaranteed to Ireland 100 seats in Parliament. All the same, Mr. Balfour's Government, when it found that the excessive representation granted to Ireland had become a positive wrong, did not hesitate to bring in a Bill in 1905 which would have had the effect of reducing the Irish seats by 30. That owing to the resignation of Mr. Balfour's Government the Bill did not become law is another matter. But the fact remains that a revision of the Irish Settlement in the matter of the representation was not excluded by the fact that the settlement was based upon an agreement between the two parties. Nor was Mr. Balfour agreeable to the view that such revision could be carried out only with the consent of Ireland. Indeed, he had launched upon the scheme of redistribution in the teeth of the Irish opposition. But it is not necessary to go so far afield to find a precedent when there is one near at hand. The constitution of Ceylon had also given recognition to pacts and agreements between various organisations allowing communal representation and communal distribution of seats. But the Ceylon Commission of 1928 was emphatic in its view that " in any case, in considering afresh the whole problem of representation, private arrangements between races or groups, while worthy of attention, cannot take precedence of considerations in the interests of the Ceylon people as a whole." It had therefore no hesitation in revising the whole scheme of representation in Ceylon out of recognition. What is asked herein is no more than what is done elsewhere.

92. It is further to be remembered that the Lucknow Pact is valueless not merely because its terms, to use the words of Government of India, " were the result rather of political negotiation than of deliberate reason," but also because it was brought about by organisations neither of which had any real authority to speak in the name of those on whose behalf they purported to act. The All-India Muslim League was not entitled to speak for all Mohamedans, and that it was the view of the Government of India in their despatch on the Report of the Southborough Committee is abundantly clear. Regarding the Congress, it is indisputable that it is a body which does not represent the vast mass of the Non-Brahmins and the Depressed Classes. A pact arrived at by organisations which are not constituent assemblies of the mass of people may bind themselves, but they certainly cannot bind the generality of the people. To give the pact an authority as though it was treaty negotiated between duly empowered plenipotentiaries of different States is to assume in the League and the Congress an authority which they did not possess. It has become necessary to assess the binding force of the agreement because of the view taken by the Government of Bombay that, " Any change in the direction of abolishing separate electorates must, however, be based on agreement between the two communities, and cannot be forced on the Muhammadans against their wish. The question is also an All-India one and can hardly be dealt with on different lines for each Presidency. The Government of Bombay adhere to the view which they had expressed in 1918 that communal electorates are not acceptable to them and that their abolition is desirable, if it can be secured with the consent of both parties as in the case of the Lucknow Pact." In my opinion this is an attitude which is as irresponsible as it is dangerous. It is irresponsible because it involves the surrender of the right of Parliament to decide in the matter. That the Government of India thought it wise not to " ignore " the pact, which in their opinion represented a genuine attempt on the part of the two communities upon so highly controversial a subject and " on behalf of the larger community at

least a subordination of their immediate interests to the cause of unanimity and united political advance," is true. But that is far from saying that the Government of India or any other authority held the view that on the question of Mohamedan representation their position was merely to register the decision which the Congress and the League may by mutual negotiations make. Indeed, Sir William Vincent was careful to point out that "in this matter (the Government of India) cannot delegate (its) responsibility to Parliament into other hands."

93. The attitude taken by the Bombay Government is dangerous because, admitting that an error has been committed, it refuses to take upon itself the task of correcting it. I would have looked upon such an attitude as a pardonable sin if the error was not an error in the constitutional arrangement of the country. But unfortunately it is an error in the constitution, and, having found its lodgment in a most vital part thereof, it affects its working in a fatal manner. An error of such a character cannot be tolerated. A mistake in constitutional innovation directly affects the entire community and every part of it. It may be fraught with calamity or ruin, public or private, and correction is virtually impossible. The Government of Bombay practically takes for granted that all constitutional changes are final and must be submitted to, whatever their consequences. Doubtless this assumption arises from a fateful renunciation that in these matters we are propelled by an irresponsible force on a definite path towards an unavoidable end—towards destruction. But I am glad to find that the Government of India in accepting the pact did not concede that its terms as embodied in the Act should stand unaltered. Far from leaving the matter shrouded in ambiguity, they made it quite clear that the arrangement was not to stand beyond the first Statutory Commission. In their Despatch on the Report of the Southborough Committee they said:—"Before we deal in detail with the Report, one preliminary question of some importance suggests itself. As you will see, the work of the Committee has not to any great extent been directed towards the establishment of principles. In dealing with the various problems that came before them they have usually sought to arrive at agreement rather than to base their solutions upon general reasonings. It was no doubt the case that the exigencies of time alone made any other course difficult for them. But in dealing with their proposals, we have to ask ourselves the question whether the results of such methods are intended to be in any degree permanent. . . . Whatever be the machinery for alteration, however, we have to face the practical question of how long we intend the first electoral system set up in India to endure. Is it to be opened to reconstruction from the outset at the wish of the Provincial Legislature or is it to stand unchanged at least until the first Statutory Commission? There are reasons of some weight in either direction. In the interest of the growth of responsibility it is not desirable to stereotype the representation of the different interests in fixed proportion; the longer the separate class and communal constituencies remain set in a rigid mould, the harder it will become to progress towards normal methods of representation. On the other hand, it is by no means desirable to invite incessant struggle over their revision." It is for the Commission to say whether the life of this error shall be prolonged. I have hopes that the Commission will not merely say, "Well, we feel the force of the objections to principle of the communal system fully. But we cannot help as India has deliberately chosen her road to responsible government." For the Commission will realise that its duty to point out the right road and lead India on to it arises not merely out of a conscientious regard for what is right but also out of the moral obligation of the British authorities who are primarily responsible for pointing out in 1909 this wrong road.

Chapter 5.

SECOND CHAMBER.

94. My colleagues have recommended the institution of a Second Chamber as a part of the Provincial Legislature of this Presidency and have suggested a framework for its constitution. I am afraid my colleagues have not devoted sufficient thought to the difficulties pertaining to its construction. In the matter of its composition a second chamber, if there is to be one, must be different than the first. In the matter of its powers, they must be such that a second chamber can work without impediment to the first chamber. It seems to me to be very difficult to constitute a second chamber which will satisfy both these conditions. A nominated second chamber is out of question. The Canadian Senate is a standing warning against the introduction of a nominated second chamber. It cannot have the moral authority of a popularly elected chamber to command respect for its decisions. Nor can it have the independence possessed by a popularly elected chamber to sit in judgment, as a revising chamber must, over the very executive which brings it into being. If the second chamber is an elective chamber then its working smoothly with the first will depend upon their respective franchise, times of election and their powers. If the second chamber is elected on the basis of a restricted franchise, it is sure to end in the raising of a small group from amongst the aristocracy into a governing class having a special degree of control over the destiny of the masses. Such a second chamber, far from being a revising chamber acting as a check upon the supposed rashness of the lower chamber, will be a chamber which, instead of putting a premium upon improvement in general, will put a premium upon the upkeep of vested interests. It would be dormant under a conservative administration and would be vigilant only under a radical one. When it ought to revise it will refuse, and when it ought to refuse to revise it will revise and may perhaps obstruct. If the two are elected on a uniform franchise, then the second will only be a replica of the first and will be quite superfluous. The same would be the result if the second chamber was elected simultaneously with the first. On the other hand, if the second chamber is elected at a different time than the first, then it is bound to enfeeble the executive and diminish its efficiency. For it would work as a hindrance to adequate policy-making and may cause such a violent break in the policy of the executive as to lead to constant general elections. If the two chambers are co-equal in powers there are bound to be deadlocks, and the inevitable result of all deadlocks is an unhappy compromise, if not a total abandonment of the principle in dispute. On the other hand, if the powers of the second chamber are inferior to those of the first, it will not be able to control the supposed rashness of the first chamber and will thus fail to perform the purpose of its life.

95. In framing the constitution of a second chamber, my colleagues have ignored all these difficulties. In doing so they have created a second chamber which, if I may say so, has all the faults and none of the virtues which a second chamber should have. In supporting the idea of a second chamber it seems to me that my colleagues have more or less followed the crowd psychology. A widespread existence of second chambers in historical times has given rise to the dogma of political science that a second chamber is a necessary accompaniment of a popular government. But it is forgotten that a two-chamber system which had its origin in England was a purely historical accident. That it found a place in the constitution of other countries was the result of the imitation of the superior by the inferior, and the virtue ascribed to it of serving as a brake on the rashness of the popular chamber is a subsequent invention of the human mind to justify the existence of what had become a universal fact. But it must be noted that this faith

in the second chamber has been dwindling of late and that pre-war constitutions like Canada and South Africa and many post-war constitutions like those of Latvia, Lithuania, Esthonia and Yugoslavia have dispensed with the second chamber. This reaction has come about by the growing conviction that a government must be judged not by the symmetry of its structure, but by its practical achievement, by the content of actual service that it renders to the community and by the amount of well-being that it brings to the nation as a whole.

96. Looking at the institution of a second chamber from the utilitarian point of view, I refuse to accept that it can perform the function of a revising chamber. If to revise means to interpret the will of the electorates, I fail to understand how the second chamber is more likely than the first to be correct in its judgment as to what the electoral will is. My view is that the electorate and not the second chamber will be the best judge when such a question arises, unless we suppose that the members of the second chamber by virtue of their position have a greater prescience than the members of the lower chamber. I deny that the second chamber possesses any such virtue. Indeed, a second chamber is not only as much likely to fail in correctly gauging the popular will, but its own interests in the matter are likely to give it such a personal bias one way or the other as to make it quite incapable of coming to an independent and rational judgment. It is therefore better, safer and more reasonable to have a single chamber and to throw the responsibility of decision, when doubt arises, upon the electorate which chooses the chamber. Besides, if the idea underlying the second chamber is to delay the decision of the first chamber, then this end is already secured by the Governor having the power to refer back any particular measure which has been passed by the legislature for reconsideration. If the legislature does not reconsider, but passes it in original form, the Governor can still stop it by vetoing it. And if the legislature does not abide by the decision of the Governor, it may compel him to submit the matter in dispute to the electorate by compelling the dissolution of the House. It is therefore obvious that what the second chamber can do or is expected to do, can be done by the Governor with his powers to veto, to refer back and to dissolve. If this is admitted, then a second chamber becomes a useless appendage to a popular chamber.

97. I am sure my colleagues would not have been led away by what exists in some other countries without applying the utilitarian standard if they had made sure that their assumption that a single chamber is likely to pass hasty and ill-conceived laws was based on sure foundations. It seems to me that the assumption is quite unfounded and displays a total ignorance of the working of modern politics. No piece of legislation in modern times is flung upon the legislature as a surprise. On the other hand every legislative proposal before it is enacted into law goes through a long process of discussion and dissection at the hands of the public extending over a long period of years. Indeed, if the antecedent history of every measure which has found its place in the Statute Book were investigated it would demonstrate that the period that has intervened between the conception of the idea and its enactment into a law has varied more often on the side of length than on the side of brevity. Such being the case the assumption that a popular chamber acts hastily and therefore needs a brake upon its wheels is to prescribe for a disease which does not exist.

98. What however my colleagues are after is not a revising chamber but a governing caste. This is clear from the purpose assigned to it, from the franchise on which it is sought to be built and the powers which are proposed to be given to it. I confess I am somewhat surprised that they should have thought that a devolution of powers on the legislature must be circumscribed by the institution of a second

chamber as an insurance against such powers being used to the detriment of a particular community, or a particular interest. For the desire really felt, as I understand it, is not that we should have a reform in which the centre or the balance of political power shall remain unchanged but that within certain limits it shall be surreptitiously shifted in the direction of the mass of the people. To attempt to circumscribe this devolution of power seems to suggest that my colleagues think that the most desirable kind of political reform is one which does not alter the balance of power amongst the different communities concerned. Persons who hold such a view in my opinion either do not know what political reform means or, knowing what it means, do not desire a reform which will disturb the *status quo*. As for myself, I make no mistake about the fact that the essence of all reform is to change the balance of power among the different classes. If the lower classes gain, some other class must lose. If each class remains with no more political power than before then there will have been no real reform. It is idle to suppose that either the lower classes or for the matter of that any class interested in reform will be satisfied with a measure, either because it is called political reform or because while proposing to change everything it contrives to keep things where they are. It would be much better to say in plain terms that the scheme of devolution of political power should be so conditioned that the flow of power shall stop with the classes and shall not reach the masses. I must however make it plain that I cannot be a party to any such scheme of reforms.

99. Granting that a second chamber is a necessity there is one supreme difficulty in the way of its formation. The authors of the Montagu-Chelmsford Report had in 1917 carefully considered the question of establishing second chambers in the provinces. But taking all things into consideration they decided against the proposal. They said, "We see very serious practical objections to the idea. In many provinces it would be impossible to secure a sufficient number of suitable members for two houses. We apprehend also that a second chamber representing mainly landed and monied interests might prove too effective a barrier against legislation, which affected such interests. Again, the presence of large landed proprietors in the second chamber might have the unfortunate result of discouraging other members of the same class from seeking the votes of the electorates. We think that the delay involved in passing legislation through two houses would make the system far too cumbrous to contemplate for the business of Provincial Legislature. We have decided for the present therefore against bicameral institution for the Provinces." The objections raised to second chambers in 1917 hold good even to-day. I am quite certain that this Presidency has not at its command a sufficient number of eminent men to run both the houses. A second chamber will sap the life of the first or the first will sap the life of the second. There is not enough material to build both. Under such circumstances it is better to have a single efficient chamber than to have two effete ones. For these reasons I oppose the institution of a second chamber in this Presidency.

Chapter 6.

POWERS OF THE LEGISLATURE.

100. *Power of appointing and removing the President.*—Prior to the reforms of 1919 the Governor who was the chief of the executive of the Province was the President of the Provincial Legislature. By the changes introduced in 1919 the Provincial Legislature obtained the right of electing one of its members as its President and to remove him from office. This was a valuable privilege. The exercise of this privilege was, however, made subject to certain restrictions inasmuch as the appointment of the President was made subject to the approval and his removal subject to the concurrence of the Governor. These limita-

tions are the remnants of the time when the Executive was supreme over the Legislature. They are not to be found in the constitution of the dominions. They are incompatible with the independence of the Legislature and must be removed. Granting that the President must be made independent of the executive, question is, must he also be made independent of the Judiciary? Section 110 of the Government of India Act defines the officers and the matters in respect of which they are exempt from the jurisdiction of the High Courts. The President of the Legislative Council is not included among the officers who enjoy this immunity. That being the case, the President of the Legislature is subject to the jurisdiction in respect of what he does as a President. That means that his conduct as a President is liable to be questioned in a Court of Law. It is feared that this opens a vast field to vexatious litigation involving great delay in the conduct of the business of the Legislature. This is sought to be remedied by granting exemption to the President from the jurisdiction of the Courts. I am opposed to this change and prefer to leave things as they are.

101. *Power of Defining Privileges.*—No one will question the expediency of allowing a Legislature every power reasonably necessary to the existence of such a body, and the proper exercise of the functions which it is intended to execute. The position of the Provincial Legislatures under the existing law is very unsatisfactory. Beyond giving certain immunities to the members of the Legislature and barring the meagre powers given to the President by rule 17 of the Legislative Council Rules for expelling a disorderly member, the law gives no authority to the Legislature to vindicate itself against a wrong calculated to obstruct its work or lower its dignity. Such authority can no longer be withheld from the Legislature. I therefore recommend that the Provincial Legislatures like the Dominion Legislatures should be given the power within prescribed limits to define by law the powers and privileges which it thinks are necessary in its own interest.

102. *Power of Regulating Procedure.*—The conduct of business in the Bombay Legislative Council is governed by Rules framed under Section 72D (6) of the Government of India Act supplemented by Standing Orders framed under Section 72D (7) of the same. In the framing of this code of procedure the Provincial Legislature has had no hand. The standing orders were made by the Governor-General in Council, though the Legislature has had the liberty to suggest amendments to them. But the Rules are framed under the provisions of Section 129A by the Governor-General in Council which expressly prohibits the Provincial Legislature from altering or repealing them. I am of opinion that the Provincial Legislature should have the power of regulating its own procedure. The difficulty in giving such freedom to the Provincial Legislatures seems to arise from the fact that some of the Rules embody provisions which in other countries form parts of their constitutional law; so that the power to amend rules virtually becomes power to alter the constitution. But this difficulty can be easily avoided if an attempt was made to enact such rules as sections of the Government of India Act. If this is done, the recommendation I have made can be easily given effect to and the Provincial Legislatures brought on a par with the Dominion Legislatures of Australia, South Africa and Canada.

103. *Power of Legislation.*—Section 80C of the Government of India Act provides that it shall not be lawful for any member of any local Legislature to introduce, without the previous sanction of the Governor, Lieutenant-Governor or Chief Commissioner, any measure affecting the public revenue of a province, or imposing any charge on those revenues. This section is a serious limitation upon the powers of the legislature. It is a relic of the days when the people had no voice in the administration of the affairs of the country. The retention of these powers will ill-accord with a legislature supreme over the executive. This Section

must therefore be deleted. The Governor will still have the power of vetoing any legislation that will be passed by the Council. That power must suffice. More than that will not be consistent with the position he will have to occupy under a system of complete ministerial responsibility.

104. *Power of appropriation.*—The Legislative Council under Section 72(D) may assent or refuse its assent to a demand or reduce the amount referred to therein either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed. This power is subject to certain important provisos. In the case of a demand relating to a reserved subject, the Governor has the power of over-ruling the decision of the Legislature if he certifies that the expenditure provided for in the demand is essential to the discharge of his responsibility for the subject. Another proviso limiting the powers of appropriation of the Legislature is contained in Section 72D, Clause (2) (*b*), by virtue of which the Governor has the "power in cases of emergency to authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province, or for the carrying on of any department." These are also very serious limitations on the powers of the Legislative Council, and I suggest that they should be removed from the Act. The powers given to the Governor under the first proviso are out of place in a Government which is fully responsible and in which the Governor is not charged with the direction of affairs. The safety and tranquillity of the Province will not be a special concern of the Governor any more than that of the responsible Executive. Consequently the power given by the second proviso to the Governor is unnecessary and should be taken away.

105. Another restraint on the financial powers of the Legislature is embodied in Section 72D (3). By virtue of this, the executive is not required to submit to the Legislature for its vote expenditure on certain specified heads mentioned therein. The result is that the Budget of the Province contains permanent appropriations to a large extent which the Legislative Council cannot touch. Theoretically speaking, every item of expenditure should be sanctioned each year by the Legislature. But the Budget, in almost every country contains permanent appropriations which do not require to be voted annually by the Legislature. Even in England there has grown up quite a list of permanent appropriations covering before the War in the aggregate about one-third of the total annual expenditure. Whether the Executive can or cannot be trusted to fix the amount and determine the character of public expenditure depends upon the stage of development at which a people have arrived in their realisation of constitutional government. If the stage be such that there exists an uncertainty concerning the political rights of the Government and the people, it would not be safe to permit such permanent appropriations of public moneys without legislative sanction as are contemplated by Section 72D (3). It is true that the foundation of responsible government in the Provinces is just being laid and the Provincial Legislatures have jealously to guard against the encroachments of the Executive. All the same, it must, I think, be recognised that the right of popular control over public affairs is recognised and will be under the new constitution fully conceded; so that under the various checks upon the arbitrary use of public authority the submission for annual sanction of every item of public expenditure need not be insisted upon. I do not therefore object to this scheme of permanent appropriations. But I object to their being made so by law, thereby curtailing the powers of the Legislature. Their being made a matter of law has had the effect of debarring the Legislature from even discussing the policy underlying the administration of non-votable items. The creation of non-votable items must be a matter of convenience. There ought to be no restraint about them on the Legislature by law.

106. *Power of Controlling the Executive.*—Originally Provincial Legislatures under the reformed constitution of 1919 could control the Ministers in three ways:—(1) By legislation, (2) by refusing supplies, and (3) by refusing or reducing their salaries. The second and the third were the only two ways whereby the Legislature could control the administration by the Ministers. This control could normally be exercised only once a year, and was therefore insufficient. Consequently provision was made in 1926 for a motion regarding want of confidence in a Minister. These powers are sufficient for the Legislature to control the actions of a Minister and were in keeping with the idea that the Ministers were to be individually liable for their actions. The future Ministry will be based upon the principle of joint responsibility under which Ministers will stand together or fall together. There is nothing in the existing powers of the Legislature to indicate that it desires to dismiss the Ministry as a whole. I think provision to this effect should be made by adding a new class of motion to be called " a motion of no confidence " as distinguished from the existing motion, which should be renamed as " motion questioning a Minister's policy in a particular matter." This was suggested by the Muddiman Committee but was not carried out.

107. *Power of altering the constitution.*—The Provincial Legislatures are bound by the terms of the instrument which has created them. By virtue of that instrument they are made bodies with " plenary powers " possessing a specific and defined power of government in their territory over all persons. The plenary powers of Government do not *per se* carry a power to alter the constitution itself. There is a desire that the Provincial Legislatures should have the powers of a constituent Assembly to alter the constitution of the Province. There is much that can be said in favour of such a proposal. Parliament having consented to grant self-government to the people of the Province, it is as well that the people of the Province had the right to decide the form of Government under which they liked to live. But it must be recognised that there are minorities who will not like their constitutional rights to be determined by the majority, as would be the case if the Provincial Legislatures were allowed the right to alter the constitution. This is the principal reason why the constitution of Canada gives no power to the Canadian Parliament to alter the constitution of Canada. There is, however, the example of South Africa, which shows that the powers of altering the constitution can be conferred on a Legislature without detriment to the position of the minorities. There is therefore no reason why the example of South Africa should not be followed. I recommend that the power of altering the constitution of the Province should be granted to the Provincial Legislature; provided that it shall have no power to alter the provisions regarding the representation of minorities in the Legislature.

108. What special procedure should be prescribed for passing such legislation is a matter which it is very difficult to decide. But it might, however, be stated that the mode of amending the constitution should be such as to make it sufficiently rigid to protect the fundamental rights of the citizens but which should at the same time leave it flexible enough to recognise that development is as much a law of life as existence and to secure deliberation before action and final decision in harmony with the principle of rule by majority. The safest course, it seems to me, would be to prescribe different procedure for different kinds of amendments to the constitution. For the more fundamental amendments the procedure should be more exacting than for amendments to less fundamental parts of the constitution.

SECTION IV.

PROVINCIAL AUTONOMY.

Chapter 1.

PROVINCIAL GOVERNMENT IN RELATION TO THE GOVERNMENT OF INDIA.

109. It is evident that the responsibility of the Executive would be of very little consequence if the Provincial Executive instead of being subordinate to the Provincial Legislature is subordinate to any other body outside the Province or if the Provincial Legislature instead of being supreme within its field is made subject to some other authority in the matter of the exercise of its powers. In other words responsible government must also be autonomous government. To render Provincial Government autonomous it is necessary to demarcate clearly the spheres of operation of the Provincial and Central governments.

110. Prior to 1919 a Provincial Government was required under Section 45 of the Government of India Act, 1915, to obey the orders of the Governor-General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him, or as to which he requires information, and is under his superintendence, direction and control in all matters relating to the government of its province. This meant that the Provincial governments had no acknowledged authority of their own in any of the matters which they administered; that whatever powers they exercised were powers which were delegated to them by the Central Government in the same way as a principal delegates his authority to his agent. By the Act of 1919 this relation of the Provincial to the Central Government was made subject to its provisions and rules made thereunder. Section 45 (1) (*b*) of the Act of 1919 provided " for the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments," while Section 45 (3) laid down that " the powers of superintendence, direction, and control over local governments vested in the Governor-General in Council under this Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under this Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case comes within the purposes so specified." The Act of 1919 therefore made two changes: (1) It gave the provinces authority of their own as distinguished from authority derived as agents of the government of India. (2) It relieved them of their former obligation to obey the Government of India in regard to those subjects which were transferred to the control of the ministers but retained its powers of supervision. From this it is clear that there may be a complete transfer of all the subjects to the control of the ministers; but transfer will always be subject to the powers of supervision of the Government of India involving interference in the freedom of action by the Provincial Government. The question is whether these powers of supervision are necessary and if so whether any other form of relationship between the Provincial and Central Governments can be contemplated in which these powers will be so placed as not to conflict with the autonomy of the Province.

111. By the Act of 1919 and the Rules made thereunder the provincial subjects are marked off from central subjects. Notwithstanding this the Provincial Legislature have not been given freedom of action or finality of action in legislating upon Provincial subjects. The powers of Provincial Legislature are restricted in two different ways. In certain matters defined in Section 80A it cannot without the previous sanction of the Governor-General make or take into consideration any law although it might pertain to a matter lying within the Provincial field. In certain other matters Provincial Legislature may pass a law but if

the law happens to fall within the purview of Section 81A and rules made thereunder its action becomes subject to the veto of the Governor-General. The combined effect of these two restrictions on Provincial autonomy can be easily understood. The question is whether any other system of relationship between the Provincial and Central Governments can be contemplated in which the powers of the Central Government will not conflict with the autonomy of the Province.

112. The provision regarding supervision by the Central Government over Provincial Government in the matter of administration of Provincial subjects and of previous sanction and subsequent veto by the Central Government of Provincial legislation regarding Provincial subjects is a feature which is not to be found in the constitution of any other country in which the functions of government are divided between two body politics, Central and Provincial, such as Canada, Australia and the United States. The provisions regarding previous sanction have found their way in the Indian constitution as a result of two erroneous suppositions. One is that it is not possible to demarcate functions exclusively. That assumption does not seem to be well-founded. For in Canada the constitution does divide the functions into two distinct classes (1) those which exclusively belong to the Central Government and (2) those which exclusively belong to the Provincial Government making each government absolutely autonomous in the sphere which is allotted to it. The second assumption is that in dealing with those functions which cannot be said to be exclusively Provincial the only way open is to make their exercise subject to previous sanction and subsequent veto by the Central Government. This again seems to me to be an erroneous assumption. The constitution of Australia and the United States are examples where the constitutions have not divided the functions into two clear cut exclusive divisions as is done in Canada. By the scheme of division of powers and functions adopted by the Australian constitution there are certain matters over which the Central Government has exclusive powers. In certain other matters the powers of the Central Government are concurrent with those of the State Governments. But the matters of concurrent legislation are divided into two categories (1) in which the power of the Commonwealth Parliament operates by way of paramount legislation merely over-riding any exercise by the State of its own powers and (2) in which the Commonwealth has no paramount power. In the United States Governmental powers are distinguishable into (1) Powers vested in the Central Government alone, (2) Powers vested in the State Governments alone, (3) Powers exercisable by either the Central Government or the States, (4) Powers forbidden to the Central Government and (5) Powers forbidden to the State Governments. Thus the constitution of Australia and the United States both recognise that there may be functions which cannot be said to exclusively belong to either. But neither of them have adopted the plan of assigning them to one government subject to the previous sanction and subsequent veto of the other government. I recommend that the Scheme of division of functions and powers like that of Canada should be tried and failing that the scheme prevalent in Australia or the United States should be adopted. But in any case the provision of previous sanction and subsequent veto should be done away with.

113. The provision whereby the Central Government has been invested with powers of supervision over subjects which have been transferred to Provincial control is partly due to want of clear cut allocation of subjects between Central and Provincial and partly to an erroneous view of the responsibility of the Central Government for the administration of Provincial subjects. The power of supervision is sought to be justified on the ground that certain subjects are of importance for Central Government. This reason will not survive a proper allocation of the subjects on the Canadian, Australian or American lines. The other justification

for the powers of supervision is the view that the Government of India must be responsible for the peace, order and good government of India as a whole and that in order that it may discharge its own responsibilities, it must have the power of supervision. It seems to me that with the partition of functions there must follow a partition of responsibilities as well. If these responsibilities are partitioned and that of the Central Government confined to matters arising out of matters assigned to it, the necessity for supervision over Provincial Governments will vanish and I suggest that the clauses in the Government of India Act which define the responsibilities of the Central Government should be amended accordingly.

114. While I am anxious to see that there should be established complete Provincial autonomy I am opposed to any change which will in any way weaken the Central Government or which will impair its national character or obscure its existence in the eyes of the people. Holding this view I am against making the Central Government a league composed of a number of governments bound together to constitute for certain purposes a single body. The effect of such an arrangement is obvious. The league will exist only as an aggregate of governments, and will therefore vanish as soon as the governments decide to separate themselves from one another. Such a Central Government will last only as long as the component governments will desire it to last. The league being a confederacy of governments will have to deal with and act upon the governments only. With the individual citizen it will have very little to do. It will have no right to tax the individual, to adjudicate upon his causes or to make laws for him. Such a Central Government is bound to be the weakest government possible. My conception of the position of the Central Government will not permit me to reconcile myself even to such a form of relationship as is found in the American constitution in which the Central government is a commonwealth as well as a union of commonwealths. It is true that under it the Central Government acts immediately upon every individual through its courts and executive officers. But it is equally true that the Central government in the United States is a creature of the States. Having been called into existence by the States it must stand or fall with the States. The States retain all the powers which they have not expressly surrendered. The Central Government has no more powers than those that have been conferred upon it by law. Such a Central Government, howsoever stronger it may be than a Central Government in a league, will not in my opinion be strong enough for the needs of India. My view is that the national Government should be so placed as not to appear to stand by virtue of the Provincial Governments. Indeed its position should be so independent that not only it should survive even when all Provincial Governments have vanished or changed into wholly different bodies but it should have the power to carry on provincial administration when a Provincial Government by rebellion or otherwise has ceased to function. Consequently on this aspect of the question I make the following recommendations:—(1) That all residuary powers must be with the Central Government, (2) that there must be a specific grant of power to the Central Government to coerce a recalcitrant or a rebellious Province acting in a manner prejudicial to the interests of the country, (3) that all powers given to the Provincial Government in case of its non-functioning shall return to the Central Government and (4) that the election to the Central Legislature shall be direct.

Chapter 2.

Provincial Government in relation to the Crown.

115. For the purpose of securing Provincial autonomy it is not sufficient merely to lay down proper relations between the Provincial Government and the Central Government. It is also necessary to define

the status of the Provincial Government. This is of practical importance principally in respect to their external relations. That the Provinces cannot have any international status goes without saying. But the question of their relationship with the Home Government stands on a different footing and cannot be easily disposed of. It is clear that whatever the nature of the relationship between the Provincial and Home Government it must be in keeping with the constitutional law of the country. The degree of independent political existence of a Province must determine the angle from which the problem is to be looked at. Are the Provinces to be treated so very devoid of independent political existence that they are to be treated as mere internal divisions comparable with the areas of local Government, unknown and unrecognised beyond India itself? If so, that Imperial Government would know but one Indian authority, the Central Government, and would in all matters affecting India address itself to that Government and receive communications from or through it alone. On the other hand, have the Provincial Governments an independent political existence in the eye of the law? If they can be said to have it, then the Imperial Government must recognise them and must in all provincial matters address them and must receive communication from them. Of these two possible bases of relationship there is no doubt that the latter is the more proper one. An independent political existence for the Provinces is now an accomplished fact. They have a sphere of activity in which they have an authority of their own. The whole scheme of reforms is opposed to the subordination of the Provincial Governments to the Central. The chief executive of the Province is not a nominee of the head of the Central Government. He is the representative of the Crown in the Province and not of the Governor-General. The constitution is a pluralistic constitution and there is nothing to suggest the view that while within India the constitution is to be treated as plural, conferring distinct powers on each, it is to be treated by the Imperial Government as a unitary constitution with a single responsible Government.

116. What are the matters in which the right of Provincial Governments to deal directly with the Home Government can be recognised? Following the rule prevalent in the case of the Australian Commonwealth that in matters in which the Crown is concerned solely in its capacity as part of the constitution of a Government, communications proceed directly between the State Governor and the Colonial Office without the intervention of the Governor-General, it must be claimed on behalf of the Provincial Governments that they shall have the right to deal with the Home Government directly without the intervention of the Central Government. The matters in which it must have such a right must include the reservation, the allowance and disallowance of provincial legislation, the appointment and removal of Provincial Governors and their instructions, the amendment of provincial constitutions and other matters which exclusively belong to the Provincial Governments. What about matters which do not exclusively belong to either Government? I suggest that in cases in which the Central Government has paramount power of legislation, the Central Government is the sole representative of India. But as to matters within concurrent jurisdiction of the Central and Provincial Government, the Provincial Government must have a right to direct representation.

117. To make the political existence of the Provinces as an entity independent of the Government of India a reality, the representation of the Crown in the Provincial Executive and the Provincial Legislature should be made more manifest than it is at present. Under the existing law the Secretary of State has placed the Crown quite in the background and has in fact usurped its place. The office of the Secretary of State for India is analogous to the office of the Secretary of State for Colonies. But the two play quite different roles. The Secretary of State for

Colonies occupies no place in the constitutional law of the Dominions. The constitutional laws of all the Dominions are emphatic in their declaration that their Executive and Legislative Government is vested in the Crown. Section 2 of the Government of India Act gives a definite legal status to the Secretary of State. So prominent is the position given to the Secretary of State that he has altogether eclipsed the Crown. Indeed, except for a passing reference in Section 1 there is no mention of the Crown anywhere in the Government of India Act. The reasons for this are no doubt historical and go back to the passing of the Regulation Act of 1773 when the East India Company disputed the right of the Crown to the possessions it had acquired in the East. Whatever be the historical differences the fact remains that the Dominion laws do not recognise the Secretary of State while the Indian law does. The result is that the Secretary of State for Colonies does not govern the Dominions. His duty is to advise the Crown to allow or disallow particular acts of the Dominion Governments. The Secretary of State on the other hand is not merely the adviser of the Crown. By Section 2 of the Government of India Act he has been given the fullest powers of government.

118. The provisions contained in Section 2 cannot be justified under any circumstance. They are derogatory to the position of the Crown and are a perversion of the true position of a Secretary of State. They gave a false picture of the position of the Provincial Governments. Whatever might have been the justification of the provisions in Section 2 before 1919 the changes introduced in that year have removed it altogether. The powers of government having been transferred to the people it is no longer possible to retain those powers in the hands of the Secretary of State. To do so would be to introduce a system of double government fraught with the possibilities of serious conflict. I therefore recommend that Section 2 of the Government of India Act should be deleted and two new sections of the following tenor should be added:—

> (1) The Legislative power of the Province shall be vested in a Provincial Parliament which will consist of the King and a Council of Representatives and which is hereinafter called " The Provincial Legislature."
>
> (2) The Executive power of the Province is vested in the King and is exercisable by the Governor as the King's representative and extends to the execution and maintenance of the constitution and of the laws of the Province.

Sections of similar import regarding the position of the Crown in the Government of India should be added to Act of 1919. Such a change will not only help to place the Crown and the Secretary of State in their true position, but they will also help to bring the constitutional law of India in line with the constitutional law of the Dominions.

SECTION V.

PUBLIC SERVICES.

I.—Reorganisation of Services.

119. *Separation of Services.*—The present organisation of the public services in India is the outcome of the recommendations of the Aitchison Commission which inquired into the Public Service of India in 1886-87. Prior to the appointment of the Commission the great bulk of the civil posts of higher responsibility and emoluments were filled by recruits from Europe and that Commission was expressly directed to suggest measures which would " do full justice to the claims of natives of India to higher and more extensive employment in the public service " of their country. The Commission held the view that the civil service should be only

" a Corps d'elite " and consequently recommended that the recruitment of officials in England should be substantially reduced and the higher appointments so set free transferred to a service locally recruited in India. As a result of these recommendations officers recruited in England formed the Imperial Services and the officers locally recruited formed the Provincial Service. The conditions of appointments in regard to pay, leave and pension of officers belonging to the two services were to be fixed on independent grounds and were not necessarily to have any relation to each other. This division into Imperial and Provincial obtains in most of the Civil Services of the country which it is needless to detail. What is important to bear in mind is that the division was made to distinguish officers recruited in England and officers recruited in India and not as might be understood from the description, in order to distinguish officers placed under the Government of India and liable to serve all over India from officers placed under Local Governments and liable to serve only in specified provinces. For instance the officers belonging to the Provincial services in the Telegraph (engineering) and the Survey of India are directly under the Government of India and not confined to any particular province while officers in the Imperial Service in the Education and the Police Departments are allotted to different provinces. In my opinion time has arrived when each Province should be free to organise its own civil service. For this the all-India character of the services must cease. There should be *Central Civil Service* recruited and maintained in response to its own needs by the Central Government to run various departments which are handed over to it by the Government of India without imposing upon its members the liability to serve under any of the Provincial Governments. Similarly there should be a *Provincial Civil Service* recruited and maintained in response to its own needs by every Provincial Government exclusively for its own employment. This recommendation cannot be said to involve any substantial change in the system. For although members of the Imperial service and Provincial service are liable to serve in any part in India their all-India character is only nominal. For the cases in which a member of the civil service whether Imperial or Provincial has been called upon to serve in a Province different from the one in which he was originally posted are few. Almost all of them continued to work to the end in the same Province in which they were placed in the beginning. That being the case the reform which I have suggested will involve no change. It will only recognise facts as they exist.

120. The grounds on which I press for this reform in the organisation of the Civil Service are many. First of all such a separation of the services into those which are central in the sense that they are in the employment of the Government of India and those which are Provincial in the sense that they are in the employment of the Provincial Government has this immense advantage, namely that it is a reform which is eminently called for by the change in the character of the Provincial Government. If the present system was continued, ministerial responsibility would be difficult of realisation. Public Servants in India according to Section 96 (B) of the Government of India Act no doubt hold their position during the pleasure of the Crown. But it must be remembered that the Act does not allow the Ministers the power to decide when His Majesty should be pleased to remove him from office. Although that power is given to the authority who appoints him yet the dismissed officer has been given a right of appeal to the Secretary of State. Not only the Minister has no right of dismissing an officer, but he cannot even punish him with impunity, because it is provided in the Act that if any officer appointed by the Secretary of State-in-Council thinks himself wronged by an order of an official superior in a Governor's Province he has a right to complain to the Governor and the Governor by the Act as well as by the instrument of instructions is bound to inquire and pass such an order as may appear to him just and equitable. These provisions

must make any Minister, however strong he may be, quite helpless against a recalcitrant member of the Civil Service who refuses to carry out the policy for which the Minister is responsible to the legislature in accordance with its wishes. Ministerial responsibility requires that a Minister shall have power effectively to deal with an erring officer working under him. He must also have the power to decide how many officers he must have and to what particular post any of them might be appointed. The existing provisions do not permit him any of the powers he must stand in sore need of. This anomaly was recognised by the Lee Commission which was appointed soon after the reforms were introduced. That Commission recommended that no further recruitment should take place in the transferred departments on an All-India basis and the personnel required for them should in future be recruited and appointed by Provincial Governments. As a result of this recommendation Provinces have been empowered to frame rules for the recruitment of officers who will take the place of the existing All-India Service Officers in these services operating in the transferred department when the latter vacate. The reform I have suggested is merely an extension of the same principle which the necessities of the case have compelled the authorities to accept. The extension cannot now be delayed for the reason that under a fully responsible system of Government the distinction between Reserved and Transferred will have vanished.

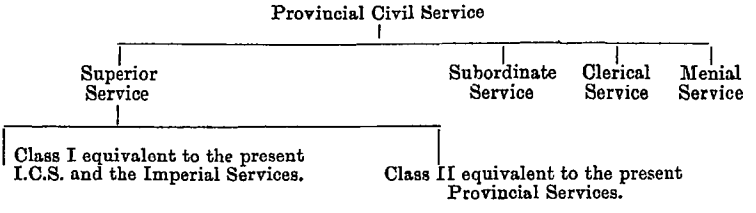
121. The second advantage of a separate and independent Provincial Civil Service will be the liberty it will give to the Provincial Governments to alter the cadre of the services belonging to the Province. The drawback of the All-India system is that a Minister who is satisfied that there are several superfluous posts ordinarily held by the members of the All-India Service and a larger number the duties of which can be and in the temporary vacancies have been efficiently discharged by the more moderately paid officers of the Provincial Services, and who might therefore be convinced of abolishing such a post or transferring it to the cadre of a Provincial Service finds himself powerless to do so. For, under the Act he has no such power. All that he can do is to let such post remain in abeyance or to let an officer of the Provincial Service concerned officiate for a lengthened period. But even here his powers are limited. For, under the rules he cannot do this beyond fixed number of months without the sanction of the Secretary of State. This is a very serious limitation arising out of the All-India organisation of the Services in that it prevents the attainment of the ends of economy for which the Reformed Council has been clamouring from its very inception.

122. These are not the only advantages of an independent system of Provincial Civil Service. The All-India character of the service imposes upon the provinces a uniformity in the conditions of employment in relation to pay, leave allowances, promotions and pensions. I contend that such uniformity must work great hardships upon the resources of comparatively poor Provinces. They are obliged to pay more for the services than they can reasonably afford. Nor can it be said that uniform scale of salary in all Provinces is necessary to ensure equality in the standard of living. It is notorious that owing to differences in local conditions the same standards of comfort can be had in two different Provinces on quite different scales of salary. If that is the case there is no reason why should uniformity in pay be enforced when such uniformity is either burdensome or unjust.

123. The requirement of uniformity in the conditions of service also arises directly out of the All-India character of the Civil Service and it will not vanish unless the service ceases to have that character. The constitution of an independent Provincial Civil Service is a means for accomplishing this end and should be welcomed particularly when its accomplishment can reduce the cost of administration and give the Provinces full liberty to manage its own affairs. This of course means

that the position of the Secretary of State *vis a vis* the Provincial Governments in the matter of recruitment to the public service must be radically altered. The Secretary of State instead of being the general employer and the Provincial Government indenting upon him for the number of hands necessary for work in their provinces, the Secretary of State in those cases where the recruitment in England is necessary should merely act as the agent of particular province concerned, on the terms prescribed by the Provincial Government and not on the terms formulated by himself. The Provinces should henceforth cease as authorities utilising the service of persons lent to them or found for them, so to say, by the Secretary of State. So long such a system continues the Secretary of State is bound to claim the powers which he now enjoys under Section 96 B of the Government of India Act. Much is said by the Ministers against the powers retained by the Secretary of State over the Civil Service on the ground that they make responsible government impossible. That criticism is perfectly valid. But those who urge this criticism do not seem to be aware of the fact that these powers can be taken away only when the Secretary of State ceases to be the recruiting officer.

124. If this reform of separation of services is carried into effect I should like to suggest the following classification of the Provincial Civil Service:—


Provincial Civil Service
Superior Service
Subordinate Service
Clerical Service
Menial Service
Class I equivalent to the present I.C.S. and the Imperial Services.
Class II equivalent to the present Provincial Services.

125. *Recruitment Agency for the Provincial Civil Service.*—The next question that arises for consideration relates to the agency that should be in charge of matters pertaining to the recruitment to the Provincial Civil Service when the Secretary of State has ceased to perform that function. I accept that the Civil Service in order that it may be free from the evil effects of political influence and jobbery should be recruited and controlled by an authority independent of the ministers. I am not, however, prepared to say that a Provincial Civil Service Commission could be instituted to take charge of this kind of work. On financial considerations alone the proposal seems to be too big. However, I agree with the suggestion that in every province there should be a full-time officer specially charged with the consideration of service matters. He should be a liaison officer between the Public Service Commission and the local government.

II.—Indianisation of the Services.

126.—(i) *Recruitment of Indians.*—The case for Indianisation was accepted by the Islington Commission in 1915. Its relation to the success of the Reforms was emphasised by the authors of the Joint Report and the Lee Commission gave effect to it by defining the proportion between the Indians and the Europeans in the different services. There is, therefore, no necessity to argue the case for Indianisation *de novo*. All that is necessary to say is that during the interval that elapsed between the appointment of the Islington Commission and the appointment of Lee Commission the angle of vision regarding this question had completely altered. In the days of the Islington Commission the question was "How many Indians should be admitted into the Public Services"? At the time of the Lee Commission it had become "what is the minimum number of Englishmen which must still be

recruited?" I am glad to say that the Lee Commission gave full recognition to this altered angle of vision. What is now necessary is to determine the necessary changes in the principles which were taken by the Lee Commission for framing the proportions of Indians and Europeans so as to accelerate the pace of Indianisation. The consideration that should, in my opinion, govern the proportions is the requirement of a Department and the merits of qualified Indians to run them. If this consideration were adopted the proportions settled by the Lee Commission will have to be altered in favour of Indians in all departments except Law and Order, Forest and other Technical Departments.

127.—(ii) *Payment of Indians.*—I press for indianisation not only on its own merits but also because of its potential effects on the finances of the Province. For, I hope that Indianisation can be made to yield economy in administration. I have not been personally able to see why equality of pay to Indians and Europeans should be regarded as a necessary consequence of membership of an All-India Service. Looking to the question from the standpoint of merit I have been convinced that there is no logical justification for equal remuneration for both classes of public servants. One class consists of a body of public servants exiled from their own home and posted in a country thousands of miles away in which they do not think that they can properly educate their children or maintain their health. Conditions such as these which compel them to maintain dual establishments at a standard of living admittedly high are considerations which do not apply to those civil servants who have their domicile in India. In contrast to their European colleagues they are working in a country in which they are living free from the difficulties of dual establishments not exposed to ill-health owing to climatic considerations and accustomed to a comparatively low standard of living. The financial burden they are obliged to carry is obviously less pressing than is the case with their European colleagues. If this difference between personal risk and sacrifices involved in the performance of their service is admitted, then in my opinion, there is no logical justification for paying them on the same basis. Indeed, if the total position of the two classes of public servants in India be compared then one thing is certain. That if the present salary of European officers is adequate then it is beyond dispute that the Indian officers are overpaid. If, however, the contention is that the Indian officers are not overpaid then it follows that the European officers are underpaid. Whichever view is taken the present practice of equal pay to Indians and Europeans gives rise to a position which is quite unsatisfactory. I have no hesitation in saying that under the present practice of equal payment whether or not the European is adequately paid his Indian colleague is certainly overpaid. That being my view I am anxious to see that the scale of salary of public servants with Indian domicile is lower. This argument I am sure cannot fail to appeal to every Indian who examines the financial position of the different Provincial Governments and the serious embarrassments in which each is placed by reason of the high proportion of expenditure which is devoted to the payment of emoluments to Public Servants. There are some Indians I know who object to this principle of inequality in salaries. Be it noted that these objections come from those classes of Indians from which the Civil Service is largely recruited, and who claim to be the leaders of the country. Theirs is a contemptible little argument without any substance in it. It has no substance because inequality in status is not a necessary consequence of inequality in pay. It is contemptible because it is based on self-interest. I for myself am in favour of increasing Indianisation mainly because of the large promise of economy which it holds out.

128.—(iii) *Indianisation and the claims of the Backward classes.*—It is notorious that the public services of the country in so far as they are open to Indians have become by reason of various circumstances a close

preserve for the Brahmins and allied castes. The Non-Brahmins, the Depressed Classes and the Mohamedans are virtually excluded from them. They are carrying on an intense agitation for securing to themselves what they regard as a due share of the Public Services. With that purpose in view they prefer the system of appointment by selection to the system of appointment by open competition. This is vehemently opposed by the Brahmins and the allied castes on the ground that the interests of the State require that efficiency should be the only consideration in the matters of appointment to public offices and that caste and creed should count for nothing. Relying upon educational merit as the only test which can be taken to guarantee efficiency, they insist that public offices should be filled on the basis of competitive examinations. Such a system it is claimed serves the ends of efficiency without in any way prohibiting the entry of the Backward Classes in the Public Services. For the competitive examination being open to all castes and creeds it leaves the door open to a candidate from these communities if he satisfied the requisite test.

129. The attitude of the Brahmin and allied castes towards this question has no doubt the appearance of fairness. The system of competitive examination relied upon may result in fairness to all castes and creeds under a given set of circumstances. But those circumstances presuppose that the educational system of the State is sufficiently democratic and is such that facilities for education are sufficiently widespread and sufficiently used to permit all classes from which good public servants are likely to be forthcoming to compete. Otherwise even with the system of open competition large classes are sure to be left out in the cold. This basic condition is conspicuous by its absence in India, so that to invite Backward Classes to rely upon the results of competitive examination as a means of entry into the public services is to practise a delusion upon them and very rightly the Backward Classes have refused to be deceived by it.

130. Assuming therefore that the entry of the Backward Classes in the Public Services cannot be secured by making it dependent upon open competition the first question that arises for consideration is, have the Backward Classes a case for a favoured treatment? Unless they can make good their case they cannot expect any modification of the accepted principles of recruitment by considerations other than those of efficiency pure and simple. In regard to this important question I have no hesitation in stating that the Backward Classes have a case which is overwhelming.

131. First of all those who lay exclusive stress upon efficiency as the basis for recruitment in public services do not seem to have adequate conception of what is covered by administration in modern times. To them administration appears to be nothing more than the process of applying law as enacted by the legislature. Beyond question that is a very incomplete understanding of its scope and significance. Administration in modern times involves far more than the scrutiny of statutes for the sake of knowing the regulations of the state. Often times under the pressure of time or from convenience a government department is now-a-days entrusted with wide powers of rule-making for the purpose of administering a particular law. In such cases it is obvious that administration cannot merely consist in applying the law. It includes the making up of rules which have the force of law and of working them out. This system of legislation by delegation has become a very common feature of all modern governments and is likely to be on the increase in years to come. It must be accepted as beyond dispute that such wide powers of rule-making affecting the welfare of large classes of people cannot be safely left into the hands of the administrators drawn from one particular class which as a matter of fact is opposed to the rest of the population in its motives and interests, does not sympathise with the living forces operating in them, is not charged

with their wants, pains, cravings and desires and is inimical to their aspirations, simply because it comes out best by the test of education.

132. But even assuming that administration involves nothing more than the process of applying the law as enacted by the legislature it does not in the least weaken the case of the Backward Classes. For, officers who are drawn from a particular caste and in whose mind consciousness of caste sits closer than conscientious regard to public duty, may easily prostitute their offices to the aggrandizement of their community and to the detriment of the general public. Take the ordinary case of a Mamlatdar, administering the law relating to the letting of Government lands for cultivation. He is no doubt merely applying the law. But in applying he may pick and choose the lessees according to his predilection and very possibly may decide against lessees on grounds which may be communal in fact although they may be non-communal in appearance. Take another illustration of an officer placed in charge of the census department in which capacity he is called upon to decide questions of nomenclature of the various communities and of their social status. An officer in charge of this department by reason of his being a member of particular caste in the course of his administration may do injustice to a rival community by refusing to it the nomenclature or the status that belongs to it. Instances of favouritism, particularly on the grounds of caste and creed are of common occurrence though they are always excused on some other plausible ground. But I like to quote one which pertains to the Vishwakarmans of the Madras Presidency. It is related in their letter to the Reforms Enquiry Committee of 1924 in which they complained that " a Brahmin member of the Madras Executive Council Sir (then Mr.) P. Siwaswami Ayyar—when he was in charge of the portfolio of law, issued a Government Order objecting to the suffix ' Acharya ' usually adopted by the Vishwakarmans in their names and seeking to enforce in its place the word ' Asry,' which is weighed with common odium. Though there was neither necessity nor authority to justify the action taken by the law member the Government Order was published by the law department as if on the recommendation of the Spelling Mistakes Committee. It happened to our misfortune that the non-official members of this Committee were drawn largely from the Brahmin community, who never knew how to respect the rights of their sister communities and never informed us of the line of action that they were decided upon. It was dealt more or less as the stab in the dark."

133. This is inevitable. Class rule must mean rule in terms of class interests and class prejudices. If such results are inevitable then it must raise a query in the minds of all honest people whether efficient government has also given us good government? If not, what is the remedy? My view is that the disadvantages arising from the class bias of the officers belonging to Brahmin and allied castes has outweighed all the advantages attending upon their efficiency and that on the total they have done more harm than good. As to the remedy, the one I see is a proper admixture of the different communities in the public service. This may perhaps import a small degree of inefficiency. But it will supply a most valuable corrective to the evils of class bias. This has become all the more necessary because of the social struggles that are now going on in the country. The struggles between the Brahmins and the non-Brahmins, between Hindus and Mohamedans, between Touchables and Untouchables for the destruction of all inequalities and the establishment of equality, with all their bitterness, cannot leave the judges, magistrates, civil servants and the police without being influenced in their judgment as to the right or wrong of these struggles. Being members of the struggling communities they are bound to be partisans, with the result that there may be a great loss in the confidence reposed by the public in their servants.

134. So far I have considered the case of the backward classes on grounds of administrative utility. But there are also moral grounds why entry into the public service should be secured to them. The moral evils arising out of the exclusion of a people from the public service were never so well portrayed as by the late Mr. Gokhale. In the course of a telling speech he observed, " The excessive costliness of the foreign agency is not however its only evil. There is a moral evil, which, if anything, is even greater. A kind of dwarfing or stunting of the Indian race is going on under the present system. We must live all the days of our life in an atmosphere of inferiority and tallest of us must bend in order that the exigencies of the existing system may be satisfied. The upward impulse, if I may use such an expression, which every schoolboy at Eton or Harrow may feel, that he may one day be a Gladstone, a Nelson, or a Wellington, and which may draw forth the best efforts of which he is capable, is denied to us. The full height to which our manhood is capable of rising can never be reached by us under the present system. The moral elevation which every self-governing people feel cannot be felt by us. Our administrative and military talents must gradually disappear, owing to sheer disuse, till at last our lot, as hewers of wood and drawers of water in our own country, is stereotyped." Now what one would like to ask those who deny the justice of the case of the Backward Classes for entry into the Public Service is whether it is not open to the Backward Classes to allege against the Brahmins and allied castes all that was alleged by the late Mr. Gokhale on behalf of Indian people against the foreign agency? Is it not open to the Depressed Classes, the non-Brahmins and the Mohamedans to say that by their exclusion from the Public Service a kind of dwarfing or stunting of their communities is going on? Can they not complain that as a result of their exclusion they are obliged to live all the days of their lives in an atmosphere of inferiority, and that the tallest of them has to bend in order that the exigencies of the existing system may be satisfied? Can they not assert that the upward impulses which every schoolboy of the Brahmanical community feels that he may one day be a Sinha, a Sastri, a Ranade or a Paranjpye, and which may draw forth from him the best efforts of which he is capable is denied to them? Can they not indignantly assert that the full height to which their manhood is capable of rising can never be reached by them under the present system? Can they not lament that the moral elevation which every self-governing people feel cannot be felt by them and that their administrative talents must gradually disappear owing to sheer disuse till at last their lot as hewers of wood and drawers of water in their own country is stereotyped? The answers to these queries cannot but be in the affirmative. If to exclude the advanced communities from entering into public service of the country was a moral wrong, the exclusion of the backward communities from the same field must also be a moral wrong, and if it is a moral wrong it must be righted.

135. These are the considerations which lead me to find in favour of the Backward Classes. It will be noticed that these considerations are in no way different from the considerations that were urged in favour of Indianisation. The case for Indianisation it must be remembered did not rest upon efficient administration. It rested upon considerations of good administration. It was not challenged that the Indian was inferior to the European in the qualities that go into the make-up of an efficient administrator. It was not denied that the European Bureaucracy had improved their roads, constructed canals on more scientific principles, effected transportation by rail, carried their letters by penny post, flashed their messages by lightning, improved their currency, regulated their weights and measures, corrected their notions of geography, astronomy and medicine, and stopped their internal quarrels. Nothing can be a greater testimony to the fact that the European bureaucracy constituted the most efficient government possible. All the same the

European bureaucracy, efficient though it was, was condemned as it was found to be wanting in those qualities which make for human administration. It is therefore somewhat strange that those who clamoured for Indianisation should oppose the stream flowing in the direction of the Backward Classes, forgetting that the case for Indianisation also includes the case for the Backward Classes. Be that as it may, I attach far more importance to this than I attach either to Provincial Autonomy or to complete responsibility in the Provincial Executive. I would not be prepared to allow the devolution of such large powers if I felt that those powers are likely to fall in the hands of any one particular community to the exclusion of the rest. That being my view I suggest that the following steps should be taken for the materialisation of my recommendations:—

(1) A certain number of vacancies in the Superior Services, Class I and Class II, and also in the Subordinate Services, should every year be filled by system of nomination with a pass examination. These nominations should be filled on the recommendation of a select committee composed of persons competent to judge of the fitness of a candidate and working in conjunction with the Civil Service officer referred to above. Such nominations shall be reserved to the Depressed Classes, the Mohamedans and the Non-Brahmins in the order of preference herein indicated until their numbers in the service reach a certain proportion.

(2) That steps should be taken to post an increasing number of officers belonging to these communities at the headquarters.

(3) That a Central Recruitment Board should be constituted as a central agency for registering all applications for appointments and vacancies and putting applicants in touch with the offices where vacancies exist or occur from time to time. It is essential to put the man and the job in touch if this desire is to be achieved. The absence of such a Board is the reason why the efforts of the Government of Bombay in this connection have not achieved the success which was expected of them.

SECTION VI.

SUMMARY OF RECOMMENDATIONS.

Section I.

There should be no separation of Karnatak or Sind from the Bombay Presidency.

Section II.

Chapter 1.—There should be complete responsibility in the Provincial executive subject to the proviso that if members of the Legislature resolve to make it a reserved subject effect shall be given to their resolution.

Chapter 2.—Under no circumstances should the executive be made irremovable. There shall be no communal representation in the executive. Ministers should be amenable to courts of law for illegal acts. The constitution should provide for the impeachment of Ministers. There should be joint responsibility in the executive. The executive should be presided over by a Prime Minister and not by the Governor.

Chapter 3.—The Governor should have the position of a constitutional head. He should have no emergency powers.

Section III.

Chapter 1.—There should be adult franchise.

Chapter 2.—The Legislature should be wholly elective. All class and communal electorates should be abolished except for Europeans. Reserved

seats should be provided for Mahomedans, Depressed Classes and Anglo-Indians and to the Non-Brahmins only if the franchise continues to be a restricted one.

Chapter 3.—The Legislature should consist of 140 members. Of these Mahomedans should have 33 and the Depressed Classes 15. The under-representation of certain districts and the over-representation of others should be rectified on the basis of population. There should be a committee to adjust seats between different classes and interests. The requirement of a residential qualification for a condidate should be removed.

Chapter 4.—Lucknow Pact is not a permanent settlement and cannot prevent consideration of the questions arising out of it afresh and on their own merits.

Chapter 5.—There should be no second chamber in the Province.

Chapter 6.—The Legislature should have the power of appointing and removing the President, of defining its privileges and regulating its procedure. Sections 72D and 80C of the Government of India Act should be removed from the Statute. The Legislature should have the power to move " a motion of non-confidence." The Legislature should have the power to alter the constitution subject to certain conditions.

SECTION IV.

Chapter 1.—There should be complete provincial autonomy. The division of functions between Central and Provincial should be reconsidered with a view to do away with the control of central government now operating through the system of previous sanction and subsequent veto.

Chapter 2.—Within the limits fixed by the functions assigned to the Provincial Government the relations between that government and the Home Government should be direct and not through the medium of the Central Government. Section 2 of the Government of India Act should be deleted as it obscures the position of the Crown in relation to the governance of India.

SECTION V.

There should be a distinct Provincial Civil Service and the Secretary of State should cease altogether to perform the function of a recruiting agency. His functions regarding the Services may be performed by a Provincial Civil Service Commission or by an officer acting conjointly with the Public Service Commission of India. Indianisation of Services should be more rapid. Its pace should vary with the nature of the different departments of State. Indianisation should be accompanied by a different scale of salary and allowances. In the course of Indianisation of the services arrangement should be made for the fulfilment of claims of the backward classes.

17th May, 1929. B. R. AMBEDKAR.

Report

of the

Bengal Committee.

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APPENDIX.

Chairman's memorandum on Moslem Education submitted to the Hartog committee.

Introductory.

1. The Bengal Provincial Committee was appointed in pursuance of the following resolution adopted by the Bengal Legislative Council at meetings held on the 9th and 10th July, 1928 :—

> " This Council recommends to the Government that steps be taken to give effect to the proposal of the Statutory Commission that a Committee of the Legislative Council be appointed to assist the Commission."

The following two provisos were also added to the Resolution, viz. :—

> " (1) Provided that the members of the Committee appointed by this Council are given absolutely the same status and powers as the members of the Statutory Commission, specially as regards the examination of witnesses and access to confidential papers and documents.
>
> " (2) Provided that before the Committee appointed by the Council make their report, they should submit the same to the Council for an expression of opinion thereon by this Council."

Thereafter in August the following members were elected to constitute the Bengal Provincial Committee :—

(1) Alhadj Sir Abdelkerim Ghuznavi, Kt. (Chairman).

(2) Mr. W. L. Travers, C.I.E., O.B.E.

(3) Mr. A. K. Fazl-ul Huq.

(4) Maulvi Abul Kasem.

(5) Raja Bahadur Bhupendra Narayan Sinha of Nashipur.

(6) Maharaja Sashi Kanta Acharjya Chaudhuri of Muktagacha, Mymensingh.

(7) Khan Bahadur K. G. M. Faroqui.

Of the members the Raja Bahadur Bhupendra Narayan Sinha, of Nashipur, resigned some time after he was appointed a Minister. The Committee, therefore, consisted of six members.

The Committee sat in joint conference with the members of the Indian Statutory Commission and the Central Committee at Calcutta in December, 1928, and in January, 1929, and has held sittings of its own from time to time. Thereafter, with the exception of Mr. Travers, most of the members attended the conference of all Provincial Committees held at Delhi on the 30th and 31st March and on the 1st April, 1929, and also the general conference of all Provincial Committees with the members of the Indian Statutory Commission and the Central Committee in the Princes' Chamber at Delhi on the 2nd, 3rd and 4th of April, 1929.

In his letter, dated the 28th March, 1928, to His Excellency the Viceroy, the Chairman of the Indian Statutory Commission stated as follows :—

> " If at the end of the sittings of the Joint Conference in any province the Provincial Committee wishes to express its own views in a report and furnishes the report to us in time, we shall be glad to give this report full consideration as one of the documents before us and further that we would in due course include such report in the Appendices which will be printed and presented to Parliament."

The Committee has drawn up this report in pursuance of the above invitation.

In the second *proviso* to the resolution which was adopted in the Bengal Legislative Council, it was laid down that before the Committee made their report they should submit the same to the Council for an expression of opinion thereon by that Council. Now as that Council has been dissolved before this Committee's report was ready, it has not been possible for us to give effect to the *proviso* which was added to the main resolution.

Further in his letter, dated the 13th April, 1929, the Chairman of the Indian Statutory Commission has expressed a desire that the Bengal Committee's report should reach London not later than the first week of June, 1929.

This Committee has, therefore, decided to forward this report within the prescribed time, although under the circumstances explained above it does not bear the hall mark of the approval of the Legislative Council.

Points of difference in the views of the members of this Committee have been noted where they have occurred.

We have had in the terms of the first *proviso* of the resolution of appointment full access to all evidence tendered to the Commission as also to confidential papers and documents so far as this province is concerned. We have refrained from referring in this report to the views expressed or the recommendations made orally or in writing by various bodies and individuals on the ground that they were made in confidence to the Commission as a whole, and it is not within our competence to anticipate the Commission in giving publicity to them, but we have given due consideration to all the materials to which we had access.

The unexpected dissolution of the Bengal Legislative Council has placed the members of the Committee in a somewhat difficult position. While this Committee had the advantage of examining all the evidence, sitting with the members of the Statutory Commission and the Central Committee and attending the Joint Conference of the Provincial Committees at Delhi, an advantage which cannot possibly be open to any other Committee which the new Council might appoint, yet they feel that

it is not possible for them to carry out strictly the terms of the resolution. But in view of the main object of the resolution passed by the Bengal Legislative Council, the members of the Committee are of opinion that they would be failing in their duty to that Council and to the Province if they do not submit their considered opinion to the Statutory Commission, if not as a Committee, at any rate as a number of individuals who enjoyed the confidence of the Council and were appointed by that Council to carry out certain specific duties which, under the circumstances mentioned, they and they alone could discharge.

PREAMBLE.

2. There seems to be a considerable consensus of opinion throughout the country that the status of India should be that of a self-governing dominion under the British Crown as an equal partner in the Commonwealth of Nations within the British Empire; that the constitution of India should be on the basis of a Federation of autonomous States, the federal or the Central Government administering only such subjects as concern the whole of India. To put this briefly the question for consideration is whether full dominion status for India is absolutely practicable at the present moment.

Let us examine the case of any of the dominions, such as Canada. Long before the constitution of Canada was placed on the basis of a federation of autonomous states the different provinces of Canada, by a gradual process, evolved themselves into autonomous states and therefore the only question there, was to put the provinces on a basis of federation with the Central Government. In other words, the different parts of the whole machine evolved themselves separately and were thereafter co-ordinated. This description applies more or less to almost all the dominions within the Empire.

The case of India, however, is entirely different. Here the provincial machinery has first to be overhauled and rebuilt. Similarly, the Central Government has also to be likewise treated. The question, therefore, is how these two processes can be carried on simultaneously. The constitutional history of the various Dominions within the British Empire shows that after the provinces of each of the Dominions had become more or less autonomous, the provincial constitutions were fitted into the central scheme. To think of dominion status at once for India we require simultaneous reconstruction of both the central and provincial machineries. Furthermore, the difficulties in India arising from the diversity of races and creeds hereditarily antipathetic to one another, with so many centrifugal forces in operation against the unity of a nationhood, in the shape of hundreds of varying languages and different religions, are so great that it is not possible to draw any analogy with the rest of the Empire without providing for fundamental differences.

This Committee has confined itself more or less to the constitutional questions relating to the Provincial Government and it does not think that it is germane to its inquiry to offer any full or detailed suggestions on matters relating to the Central Government or its connection with the Secretary of State and Parliament. Any proposals therefore that it may make in regard to the Central Government will only be general.

The primary concern of this Committee is to suggest how far full responsible government may be inaugurated in the province.

The preamble to the Government of India Act of 1919 provides for " the gradual development of self-governing institutions with a view to progressive realisation of responsible government in British India," and says that " its policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should be taken."

Now " complete provincial autonomy " requires the fulfilment of two entirely distinct conditions, namely, (1) the autonomy of the province *vis-à-vis* the Central Government, (2) the internal political system of full responsible government. How far these two conditions can be fully satisfied at the present stage is a matter of considerable doubt. Therefore the unanimous opinion of this Committee is that *as far as possible* there should be complete provincial autonomy. Whether that will mean a complete transfer of all subjects will be discussed in the main body of our recommendations. Here we should like to state that before we proceed to ask for provincial autonomy in any shape or form, we must press for provision for our financial resources as between the province and the Central Government In other words, provincial autonomy in the strictest sense is not possible without providing for unhampered financial resources in the province itself. If this militates against an attempt to develop the unity of India, then a scheme must be found so that the financial relation between the province and the Central Government may be put on a satisfactory footing. In our opinion the existing financial settlement between the Central and the Local Government was alone sufficient to make the successful working of the Reformed Constitution extremely difficult. Hence in the forefront of our recommendations we desire to place the immediate need of a satisfactory financial settlement. As a result of our deliberations with the members of the various Provincial Committees at Delhi we are of opinion that having regard to the varying conditions that obtain at present in the different provinces, it may not be possible to provide in every detail exactly the same constitution for each province and that a certain amount of latitude will perhaps have to be allowed for.

We should also like to state that the provisions for safeguarding certain interests which we are likely to suggest will not tend towards a completely rigid constitution, but that there will be a certain amount of flexibility.

FINANCIAL SETTLEMENT.

3. Bengal has been suffering from financial stringency even before the so-called Meston Award. The Meston Settlement, which was incorporated in the Devolution Rules made under the Government of India Act, was such as to cripple her resources and to make the successful working of the new constitution well nigh impossible. The ability of an administration to satisfy the legitimate aspirations of the people it governs is judged by its revenues. Admitting this, there can be no question whatsoever that the Government of Bengal can do very little for the people it governs, much less in fact than is done in almost all the other provinces under the present conditions. In 1927-28 the expenditure per head in Bengal was only Rs.2.3, whereas the expenditure in the other two presidencies was in Bombay Rs.7.4 and in Madras Rs.3.3. During the same year the revenue per head of population in Bengal was Rs.2.32, which with the exception of Bihar and Orissa was lower than that of all the other provinces of India.

Now out of the total revenues collected in 1925-26 from each of the various provinces the Central Government took away from Bengal 69 per cent.; whereas it took away from the United Provinces 17 per cent., Madras 30 per cent., Bihar and Orissa 6 per cent., Punjab 14 per cent., Bombay 59 per cent., Central Provinces 9 per cent. and Assam 13 per cent. In other words, out of a total of Rs.35,75,80,000 revenue raised from Bengal the Central Government took away Rs.24,37,00,000, leaving the Local Government with only 10 crores 70 lakhs 58 thousands. That is to say, out of every rupee collected in Bengal by way of revenue, she is left with only five annas to manage her administration.

Yet the revenues derived from income-tax and super tax in 1925-26 came to 5 crores 92 lakhs. From the report of the Finance Relations Committee which sat in 1920 it was proved that 90 per cent. of the income-tax collected in Calcutta was earned solely in Bengal. This 90 per cent. of 5 crores 92 lakhs is 5.33 crores. The income from jute is 3.64 crores. Thus, out of a total of 8.97 crores raised from Bengal under these two heads, Bengal does not receive a farthing.

We therefore maintain that no political reform is worth having unless and until this financial question is satisfactorily settled. Bengal can scarcely find 1.33 crores to spend on education for a population of 46 millions and only 24 lakhs on public health. While preventible diseases, such as malaria, kala-azar and cholera, are carrying away hundreds of thousands of our population yearly, the local administration is powerless to take proper and adequate steps to stop the ravages of these fell diseases, in order to save the lives of millions committed to its charge.

There is not the least doubt that jute is the monopoly of Bengal. Roughly speaking, 80 per cent. of our population are

agriculturists and a large majority of them grow jute. Now, millions of these unfortunate men stand in waist-deep water for hours together in the jute season after the jute is steeped, in order to separate the fibre from the stem, and in the process they risk their lives and contract all sorts of diseases; yet Bengal is not getting anything from her jute revenue.

The present allocation of revenue to Bengal has made her undoubtedly the least solvent province. This Committee does not press for getting the whole or a part of the revenue derived from jute or income-tax, but insists that at least an additional 4 crores should be assigned to Bengal. We therefore place this in the forefront of our recommendations.

If the province cannot be made strictly autonomous with respect to its finance, then a general principle might be adopted, namely, to allot to provinces from all centrally collected revenues on the basis of their needs and the extent to which each province produces those revenues.

The question of increasing (1) death duties, (2) super tax, (3) terminal tax, (4) octroi, was placed before us for our consideration. In this connection other sources may also be considered. In France and Switzerland a tax on tourists and aliens is levied. The present passport and patenting fees and gun and game licences might also be increased.

Provincial Autonomy.

4. In moving the Second Reading of the Government of India Bill the late Mr. E. S. Montagu, addressing the people of India, said :—

> " The future and the date upon which you will realise the future goal of self-government are with you. You are being given great responsibility to-day, and the opportunities of consultation and influence on other matters in which, for the present, we keep responsibility. You will find in Parliament every desire to help and to complete the task which this bill attempts if you devote yourselves to use with wisdom, with self-restraint, with respect for minorities, the great opportunities with which Parliament is entrusting you."

Thus the future goal of self-government in the provinces is provincial autonomy together with the establishment of complete responsible government. This was the objective of the Montford Reforms and dyarchy was designed to serve as a stepping stone. Expressions of opinion have been forthcoming from various sources in favour of conferring autonomy on the provinces, but provincial autonomy is a term which finds favour with many persons who do not appear to appreciate its implications or to be familiar with the divagations of some of the provincial councils. Dyarchy is certainly " a cumbrous, complex,

confused system " and a clumsy device, but in the provinces where it has been given a fair trial and has been worked with good will, considerable progress has been made.

During the first three years after its introduction, dyarchy worked in Bengal; and making allowance for the inexperience of the people in the representative system of Government it may be said that it worked with satisfactory results. People evinced more and more interest in self-governing institutions and the Calcutta Municipal Corporation Bill was passed, which conferred larger powers on that civic body. Though an example of municipal mis-government has been provided by the Calcutta Corporation and though, since 1924, when the majority of the seats in that Corporation were captured by the Swarajists, municipal affairs have been administered from a political rather than a civic point of view, yet it is recognised that these freaks are only a feature of a transitional period and it is mistakes and failures that must eventually lead to a proper civic sense.

The second term of dyarchy began in the year 1924. This term was the most eventful period in its life. A section of the people, who professed no faith in British pledges and British justice, captured a very large number of seats and entered the Council, evidently with the intention of creating a political deadlock. They succeeded more or less in creating a deadlock in 1925-26, when the Governor had to assume charge of the Transferred Departments for about a year. Practically no new scheme conducive to the well-being of the country could have been initiated in this period. The influence of the obstructionist section waned in the general election which was held at end of the year 1926 and the Moslem community as a whole refused to return any candidate on an obstruction ticket. The Council of 1927 therefore augured well for dyarchy, the number of obstructionists being reduced to 40 out of 99 elected seats. Notwithstanding this clear majority in the number of elected councillors willing to work the Reforms, there could not be any smooth working, because this co-operating body, especially the Moslems, were hopelessly divided among themselves. The obstructionists took full advantage of the internal dissension and disunion of the Moslem councillors and succeeded in overthrowing the Ministry at every turn by joining hands with the malcontents. Therefore, during the third term also, the Reforms could not work unhampered and thus it cannot be denied that dyarchy has not been given an unmolested trial for full three terms in Bengal. But at the same time it must be said that people did not find in it any intrinsic merits, nor did they appreciate it as a practical system. Even if it had been given an uninterrupted trial in Bengal as in Bombay, Madras and the United Provinces, the result would perhaps have been the same. The presence of an official and nominated *bloc* in the Provincial Legislature, ready to stand by Ministers in times of need, tempted them to work at times independently of popular opinion.

Extreme financial stringency holding up new schemes in the Transferred Departments, wide scope of interference in the function of the Ministers over those departments by statutory provisions and rules were sufficient to take away the responsible character of the Ministers as Parliamentary leaders and make the system entirely unpopular. Again, the want of responsibility on the part of the Ministers to the legislature worked adversely to the formation of party grouping in the Council, so that in the Bengal Council, though the majority of elected members were for working dyarchy, yet on account of their being disorganised, Government could not carry on an uninterrupted administration during the last three years. It is, therefore, admitted by all sections of the people in this province as well as in other provinces that dyarchy, by reason of the limitations inherent in the system, has failed to serve as a stepping stone to a true responsible form of government. At the same time it cannot be denied that it has succeeded in arousing to a remarkable extent political consciousness in the masses, which will be evident from the increase in the percentage of attendance of electors at the polling booths in successive elections. It has also succeeded in promoting a greater sense of responsibility in the legislature, which will be noticed from the fact that notwithstanding the strong opposition of the Swarajist councillors which aimed at effecting a deadlock, there was little difficulty in passing the budget during the last three terms. Besides, it is admitted that the councillors, including the obstructionists, generally showed a sense of responsibility with respect to the transferred subjects. It is therefore evident that though a certain section has given indication of irresponsibility, people as a whole are growing politically alert, though they do not favour dyarchy as a method of administration. In the circumstances, the only solution is to confer a fuller measure of self-government, which will make Ministers really responsible to the legislature and the legislature to their constituents, viz., the people.

The educated classes in the great cities realise what representative government means, but they are a small minority. It is in the villages that the vast bulk of the population is to be found. The Montford Scheme has created legislatures without ascertaining whether the material for an electorate exists, and until an electorate which can appreciate the implications of representative government is forthcoming, it will be impossible to carry out to the full measure the pledges set out in the preamble to the Government of India Act.

In the present condition of the Indian provinces, inhabited as they are by multifarious races professing different creeds and having various conflicting interests both political and social, and also in consideration of the limitations of the resources at their disposal, it will not be possible to instal a scheme of absolute provincial autonomy with complete self-government. Yet, however, a workable scheme of responsible government should be

framed, which will not impair to any great extent the truly autonomous character of the provinces and will also make the executive responsible to the legislature for the administration of the provinces, or, in other words, there should be a *maximum amount of autonomy with a maximum amount of responsibility to the legislature* compatible with the conditions of each province. In such a scheme the first and the foremost matter to be considered is the financial adjustment as between the provinces and the Central Government.

The case of Bengal as to how she has been crippled by the Meston Award has been dealt with elaborately in a previous section. Those provinces, particularly Bengal, where grave injustice has been done should forthwith be assured of financial solvency. For this purpose the Central Government should allot to Bengal particular sources of revenue collected in the province sufficient to enable her to meet all her legitimate expenditure and to employ the surplus on new schemes of development or else allot to Bengal from centrally collected revenues on the basis of her needs and the extent to which she produces these revenues. No amount of reform will be popular or worth having until the finances of the province are put on a satisfactory footing.

Transfer of Provincial Subjects.

5. The second point is to transfer all provincial subjects, excluding, as some of us think, law and order to the charge of popular Ministers responsible to and removable by the legislature or to include in the transfer, as others think, law and order with necessary safeguards for their administration. The limitation of control under section 49 of the Devolution Rules as at present applicable to transferred subjects only should now be applicable to all provincial subjects. But still the control of the Central Government will have to be maintained over a variety of subjects, particularly provincial legislation affecting religion, custom, the peace and tranquillity of the province and also over broader questions of policy affecting the political unity of Federated India The Reservation of Bills Rules, which are in force now, should remain with the exception of clause (*c*) of rule 2. At present the Central Government has almost unlimited control through legislation over almost all provincial subjects as enumerated in Part II, Schedule I of the Devolution Rules. This control should be considerably relaxed and the provincial legislature should be authorised generally to make their own laws except in the case of such subjects which have an all-India bearing. The Central subjects as enumerated in Part I, Schedule I of the Devolution Rules, may therefore remain as at present except items 41 and 47 ; the latter item should be deleted as the residuary powers should be vested in the provincial legislature. The Local Government (Borrowing) Rules, the

Scheduled Taxes Rules and the Local Legislatures (Previous Sanction) Rules may also remain as at present. With financial solvency assured and the transfer of all provincial subjects devolving responsibility on the legislature, we think the demand for provincial autonomy with responsible government will be sufficiently met, though the emergency powers must remain vested in the Governor and the Governor-General in Council.

Constitution of the Central Government.

6. We have recommended the grant of wider powers and the transfer of almost all subjects. In making these recommendations we have assumed the existence of a strong Central Government in India capable of exercising a unifying influence over the country as a whole both by legislation and by administrative action, and of interfering effectively in the administration of any provincial government in case of a breakdown or for any other sufficient reason. We consider that in the present condition of India a strong Central Government is absolutely essential if the various provinces of India, which differ so much from each other in race, language and, to some extent, in religion, are to be prevented from drifting apart. In our view the Central Government in India should always be of the federal type in which the representation of the important minority community should be 33 per cent. and Bengal should be granted a larger share of the seats than that at present allotted. The present constitution of the Government of India has not been found altogether satisfactory. The existence of an irremovable executive neither chosen from nor in the legal sense responsible to the legislature, faced by a legislature in which the Government is in a permanent minority, has resulted in the weakening of the executive and has produced a sense of irresponsibility in the legislature. The Government of India have frequently been defeated in their attempts to introduce legislation which they considered essential, and in many other cases where they have succeeded, their success has been due to fortuitous circumstances. We, however, think it essential that the position of the Government of India *vis-à-vis* the central legislature should be strengthened.

Powers of the Governor.

7.—(*a*) The Governor should have powers of authorising expenditure in case of emergency for carrying on the administration of any Department.

(*b*) He should have powers of certifying bills in all subjects, similar to the powers now provided by section 72B of the Government of India Act. It should be regarded as a power to be used only in exceptional circumstances with the approval of the Governor-General or His Majesty's Government.

(*c*) He should have powers to interfere or overrule a majority of the Cabinet in enforcing or rejecting measures affecting the safety and tranquillity of the province; these powers to continue for a stated period of years, say 15 years, after which this provision may be revised in the light of experience.

(*d*) If " Law and Order " is kept directly under the Governor, the Governor should preside over the Cabinet as the personality of the Governor presiding in the Cabinet is a great factor in ensuring unanimity; otherwise the Governor should be outside and above the Cabinet, with statutory powers to interfere as stated above. He should appoint one of the Ministers as President to preside at Cabinet meetings. He should have the right to summon the Cabinet to meet him if he wishes to discuss any matter with them. The proceedings of the Cabinet together with the papers connected with them should be laid before the Governor.

(*e*) The Governor should have the power of dismissing a Minister or Ministry if he or they have been defeated in the legislature in circumstances which, in the opinion of the Governor, demand his or their resignation and he or they fail to resign. He should also have the power to dismiss a Minister or Ministry, if he considers that the safety or tranquillity, or the interests, or the maintenance of financial stability, of the province, demand such dismissal.

(*f*) Should the constitutional scheme come to a standstill through obstruction, the Governor should have reserve powers to carry on the administration. He should have statutory powers to appoint Ministers, pay their salaries and make due provision for the administration by sanctioning payments in accordance with the current year's budget or the previous year's budget *plus* 5 per cent., if the budget for the current year has not been passed by the legislature. This would be at first for a period not exceeding six months, during which there would be a general election. If the deadlock were not removed as the result of the election, the constitution would be suspended for a period with the approval of the Governor-General in Council or other superior authority.

(*g*) The Governor should have powers of veto over legislation, with the approval of the Viceroy, where there is acute inter-racial or inter-communal dissension.

Administration of Law and Order.

8. There has been difference of opinion between the members of the Committee with regard to the transfer of Law and Order. Some of us held that Law and Order should be excluded and should be placed under the direct charge of the Governor. Others held that Law and Order should equally, along with other subjects, be transferred. The Maharaja Mymensingh, was of that opinion, but held that in that case there will be no need to retain separate and communal electorates which should be

abolished. If Law and Order were excluded he was in favour of retaining separate communal electorates with one proviso, namely, that the same should be extended to all self-governing bodies, such as district and local boards and municipalities.

On the question of separate communal electorates all the members, with the exception of the Maharaja, were unanimous in thinking that, having regard to the conditions that obtain in the province, separate communal electorates should be retained. Therefore as a compromise it has been agreed that the transfer of Law and Order to a Minister should be safeguarded. The Minister holding the portfolio of Law and Order should have a Board to assist him in administering the Department, consisting of three members—one Hindu, one Moslem and one European, appointed by the Governor, one of whom may be an official. In the event of disagreement between the Board and the Minister the Governor's decision shall be final. The Governor must retain the power of vetoing any measure which he considered necessary in the interests of public safety and also of initiating any measure which he considered necessary for the maintenance of public safety.

There is an alternative suggestion that the portfolio of police alone should be placed under the Governor whereas the administration of Justice and Jails may be transferred to a Minister with or without the assistance of an Advisory Board of the nature as indicated above.

Mr. Travers is definitely of opinion that the portfolio of police should continue under the Governor. He has, however, no objection to having a Board to advise the Governor.

Necessity for Upper Chamber.

9. The Provincial Legislative Council, when further popularised, will be ruled by the majority and a not unlikely result will be that irresponsible legislation may at times be enacted, which on occasions might encroach upon the rights of minorities. A situation of this kind can only be controlled if almost unlimited powers be assigned to the Governor for the purpose of vetoing or withholding his assent from any legislation or administrative measure, which he has reason to believe contrary to the interests of the population of the province as a whole. But by vesting in the Governor such extensive powers, relations between him and the popular Council will always be strained, which is highly undesirable. Therefore as a check on the popular Council the creation of a Second Chamber seems essential. Even in the highly advanced countries of Europe it has been found necessary to establish an Upper House as a safeguard against occasional irresponsible legislation in the Lower House. Much more will it therefore be necessary to provide for a check of a similar kind in our provinces, which are politically so much behind other countries in the West.

Not less than half of this Chamber will be elected by direct restricted franchise and of the remaining half 40 per cent. will be members in their own right, chosen automatically by means of prescribed rules and the remaining 60 per cent. will be nominated by the Governor.

Members in their own right will mean—

(*a*) persons having permanent residence in the province who have served as Members of the Governor-General's Executive Council or as Members or Ministers to the Local Government;

(*b*) title-holders not below the rank of Raja, Nawab or Knight.

The Maharaja Sashi Kanta Acharjya Chaudhuri, however, is of opinion that the Upper Chamber should consist of 60 members, five to be elected by the members of the Lower House, 35 by the electors of the Council of State plus *ex*-members of Councils and title-holders not below the rank of Raja, Nawab or Knight and 20 to be nominated by the Governor.

It will be composed of representative men of outstanding merit, proportionately gathered from all communities. They will be drawn from the classes who have a large stake in the country who are leaders of thought or who have had experience in administration as high officials.

[*N.B.*—Mr. Fazl-ul Huq is of a contrary opinion. He says, " I am not in favour of the establishment of an Upper Chamber both because I consider it unnecessary and because I find public opinion so strongly against it that its establishment will render the whole constitution unpopular ".]

Separate Communal Electorates.

10. We are of opinion that under existing conditions in Bengal separate communal electorates must be retained for election to the legislatures, and should be extended to all local self-governing bodies as well where adequate representation should be provided for all communities. These separate communal electorates should be retained as long as the members of the particular community enjoying such electorates desire them. It will be open to the legislature to rescind this provision at any future time, if it is decided by three-fourths of the members representing a particular community that such provision is no longer necessary.

Separate communal electorates for Europeans and Anglo-Indians should likewise be retained.

The Maharaja, however, is of opinion that the Anglo-Indians should either cast in their lot with the Europeans or with the Indian Christians and should either be elected to the Councils from the general European cum-Anglo-Indian constituencies or a separate constituency should be created consisting of Anglo-Indians and Indian Christians.

METHOD OF ELECTION.

11.—(*a*) The system of election to the Legislative Council should be as it is now, that is by the direct method.

(*b*) The election to the Second Chamber should also be direct in all cases, except in the case of Europeans and Anglo-Indians, by proportionate representation by means of the transferable vote, in case there are plural member constituencies.

[*N.B.*—Chairman's personal opinion is that indirect election through electoral colleges will make it possible for a better type of candidates to be returned.]

Electoral colleges will be composed of men elected by all adult males paying chaukidari tax or union rates. This system will thus confer a very wide franchise and will be the means of educating the masses in the rudiments of democracy. The elections will be at their doors and the men so elected will be those who will have the greatest influence in the various unions and will command confidence. The members of the electoral colleges so formed will be less liable to corruption and will be more likely eventually to cast their votes in favour of really suitable candidates. Candidates elected by the electoral colleges to the Councils will then have a fair chance of keeping themselves in touch with their constituencies through the members of the electoral colleges, who will be in this scheme the secondary electors to the Legislative Councils.

FRANCHISE QUALIFICATIONS.

12.—(*a*) Two of the qualifications of electors in the rural constituencies of the Legislative Council are the payment of cess of not less than Re.1 and the payment of union rate or chaukidari tax of not less than Rs.2. The qualifications of electors for the union boards are of the same kind, but whereas the payment of the same amount of cess is required, the minimum amount of union rate or chaukidari tax is Re.1 instead of Rs. 2. The percentage of Muhammadans in the population of Bengal in 1921 was 53.55, of Hindus 43.72 and of others 2.73. In the rural constituencies alone the percentage of Muhammadans was 55.33 and of non-Muhammadans, including Hindus and others, 44.67. Of the voters in the Muhammadan and non-Muhammadan urban and rural constituencies in the 1926 election the percentage of Muhammadans was 45.95 and the percentage of non-Muhammadan voters was 54.05; in the rural constituencies the percentages were 48.84 and 51.16. Assuming that there would be a similar result in the districts and thanas in which union boards have not yet been established, it is calculated that the lowering of the franchise would make the Muhammadan percentage of the voters in the rural constituencies about 57.75 and the non-Muhammadan about 42.25. The Muhammadan vote would increase from about 513,000 to more than 1,121,000 and the non-Muhammadan from about 540,000 to about 900,000. The total

number of voters would rise from about 1,050,000 to a figure over 2,000,000; the enfranchised percentage of the adult male and female population would rise from 4.8 to more than 8.

(*b*) When more power is to be transferred to a legislature responsible to an electorate, the representative character of the legislature must be strengthened by increasing the number of the electors. The present percentage of the population which is enfranchised is so small that it can scarcely claim to represent the people. Hence we are agreed that the franchise for the general electorates for the Council should be the same as that now in vogue for union board electorates, viz., the payment of Re.1 cess or Re.1 union rate or chaukidari tax.

This would have the further advantage of giving to each of the two chief communities a voting strength which would be approximately proportionate to their population strength.

With the exception of one member, others are of opinion that the franchise qualifications in the Landholders' Constituencies should be lowered at least by half of the present qualifications.

Adult Suffrage.

13. Adult suffrage is at present neither desirable nor practical for the obvious reason of the illiteracy of the masses, millions of whom do not know what the vote means nor do they understand the implications of representative government. By adjusting franchise qualifications as indicated in the preceding paragraph, a sufficient extension of suffrage will be effected. It is therefore desirable to educate the electorate so formed before considering the question of any such universal extension.

Size of Constituencies.

14. As a result of making the voting strength of the two important communities proportionate to their population, the total number of voters both Muhammadan and non-Muhammadan has almost doubled. Hence the size of the constituencies should now be reduced by half. This will enable us roughly to double the existing number of members of the Legislative Council and will give a rough average of a seat for every 227,000 inhabitants and for every 10,000 voters.

Urban and Rural Constituencies.

15. The urban and rural areas should be separated for the purpose of election. At present there are 17 urban constituencies, viz., 11 non-Muhammadan and six Muhammadan. These may remain. All municipalities other than those in which urban constituencies have already been formed should be included in urban constituencies, in order to eliminate the present anomaly whereby some municipalities are included in rural constituencies and some in urban. For this purpose it may be necessary to

group together two or more municipalities in order to get the requisite number of electors. Three more seats may be allotted to these new urban constituencies which will bring the total to 20 urban constituencies. Franchise qualifications in the urban areas should not be lower than what they are at present, but it seems that owing to different systems of assessment in different municipalities an elector who might be qualified by the payment of rent in one municipality would not be qualified by the same payment in another. We recommend that some provision should be made by which the franchise qualifications should be the same in all municipalities, whatever the system of assessment.

There seems at present an unduly larger representation of urban interests as compared to rural. The adjustment of the franchise qualifications by adopting the same standard as that for the union board, viz., Re.1 union rate or chaukidari tax, will not affect the number of electors in urban areas. Therefore additional seats in the enlarged Council should mostly go to increase representation in rural areas.

Basis of Representation.

16.—(*a*) Representation of Muhammadan and non-Muhammadan elements in the Legislative Council through the general constituencies should be *proportionate to their number in the population.*

The Maharaja Sashi Kanta Acharjya Chaudhuri, however, is of opinion that representation of the above should be according to the mean between the proportion to their number in the population and the amount of taxes paid by them.

(*b*) The European and the Anglo-Indian communities will have the same proportion of representation as in the present Council. Their number will increase in proportion to the increase in the total strength of the Council. The European community have not pressed for an increase in their representation, but the Anglo-Indian community have pressed for an increase in their representation both on the Assembly as well as on the local Council. As stated in the preamble, this Committee has more or less confined its recommendations to provincial matters; yet it expresses its sympathy with the Anglo-Indian community's demand for an increase in their representation on the Assembly. So far as the local Council is concerned, their number will be automatically increased in proportion to the increase in the total strength of the Council. If that does not meet the situation, this Committee has no objection to the increase of one more seat in their representation than there is at present.

Mr. Travers on behalf of the European community is of opinion that as regards representation in the Assembly, the Chamber of Commerce should have two additional representatives and the North of Bengal should have one additional elected seat.

(*c*) There should be an increase in the representation of landholders.

(*d*) The two Universities should be represented each by one member.

(*e*) Representation of commerce should remain as at present.

(*f*) Adequate representation of labour should be effected by nomination, as it does not seem to be practical at present to create any special constituencies.

(*g*) As regards the so-called depressed classes the Committee has not been able to probe the possibilities of creating any special constituencies for them. If that is not possible, they should be represented by nomination as now, but their representation should be more effective. This Committee desires to express all sympathy with the aspirations of the depressed classes and will assent to any scheme whereby the disabilities under which they labour might gradually disappear. As their disabilities in the main are of a social rather than of a political nature, this Committee is unable to make any specific recommendations in a scheme of constitutional reconstruction, beyond supporting their claim for adequate and effective representation in the Legislative Council and all local self-governing bodies.

(*h*) Representation of Indian Christians should remain as now by means of nomination.

Composition of the Legislature.

A.—Legislative Council.

17. The strength of the Legislative Council should, in the opinion of this Committee, be considerably increased. The Committee are not unanimous as to whether the number should rise to 200 or 280, i.e., double the present number. The latter seems more in keeping with the increase in the number of constituencies as well as in the number of voters.

There should be—

(*a*) General Constituencies.
(*b*) Special Constituencies.
(*c*) Nominated Members.

Representation in (*a*) and (*b*) should follow exactly the line indicated in the preceding section on " Basis of representation."

As regards (*c*), out of the nominated members the nominated official members should be limited to Secretaries and heads of, say, two or more important Departments and experts.

The Maharaja, however, is of opinion that nominated official members should be limited to Secretaries and experts of important Departments.

The general opinion is that officials to the extent indicated above should continue to be members and should have the power to vote. There is, however, also a contrary view that no officials should be nominated.

Candidates for election need not be residents of the constituencies for which they stand and as at present voters in special constituencies should be allowed to stand from general constituencies. Candidates should not be permitted to stand for more than one constituency at a time.

The Maharaja and Khan Bahadur Faroqui are of a contrary opinion and the Maharaja further thinks that while candidates should be allowed to stand for more than one constituency at a time, a voter should also be permitted to vote in as many constituencies as he is eligible to vote for.

B.—The Upper Chamber.

The strength of the Upper Chamber should be 30 to 40 per cent. of the Lower Chamber.

It has already been indicated in a previous section how it should be composed.

For some constituencies the election to the Chamber should be direct and for others electoral colleges will be devised. No voter from any constituency of this Chamber should be below 21, nor any member below 35 years of age. There should be separate communal electorates for Muhammadans, non-Muhammadans, Europeans and Anglo-Indians, but European and Indian Commerce need not be represented in this Chamber otherwise than by nomination.

[*N.B.*—Mr. Fazl-ul Huq is not in favour of an Upper Chamber.]

DURATION OF THE COUNCIL.

18. The life of the Legislative Council should be five years and the President of the Council should be elected. The term of office of the Upper Chamber should be seven years and its President should be elected.

[Khan Bahadur Faroqui is, however, of opinion that the life of both the Lower and Upper Houses should be the same.]

Both the Legislative Council and the Upper Chamber may be dissolved by the Governor earlier than its prescribed term in the same manner as at present provided under section 72(B) of the Government of India Act; the period of extension, however, not exceeding two years instead of one year as provided in that section.

THE LEGISLATURE.

19. The ultimate authority of the legislature should vest in a joint session of the two Chambers, whether in matters of legislation, supply or votes of censure. Thus in matters of legislation the following procedure is suggested :—

(*a*) If a bill is passed by both Chambers it becomes law subject to the assent of the Governor.

(*b*) If a bill be passed by the Lower Chamber, the Upper Chamber may refer it back for reconsideration. If the

Lower Chamber accepts the amendments proposed by the Upper Chamber, the bill becomes law subject to the assent of the Governor. If the two Chambers do not agree, the bill should be taken in joint session, and the decision of the joint session will prevail subject to the assent of the Governor if the bill be passed.

(*c*) If the Lower Chamber rejects a Government bill, the Government may place it before the Upper Chamber. If the Upper Chamber passes it and the Lower Chamber again refuses to pass it, a joint session will be held; if the bill is passed by the joint session, it will become law subject to the assent of the Governor. Government bills should be introduced in the Lower Chamber.

(*d*) Private bills may be introduced in either Chamber. If a private bill be rejected in the Chamber in which it is introduced, it will fail. If passed by both Chambers, it will become law subject to the assent of the Governor.

(*e*) All taxation and appropriation bills should be introduced in the Lower Chamber and should not be proceeded with unless passed by that Chamber. After passing the Lower Chamber such a bill should be laid before the Upper Chamber, which may either pass the bill or reject it or suggest amendments to it. If such amendments are not accepted by the Lower Chamber a joint session should be held. In the event of rejection, the bill should be returned to the Lower Chamber, which may either acquiesce in the decision of the Upper Chamber or demand that the bill be considered in a joint session of the two Chambers, in which case the decision of the joint session will be final.

(*f*) In matters of supply, demands for grants should be moved in the Lower Chamber and also laid before the Upper Chamber. The Upper Chamber will have no power to reject *in toto* any grant passed by the Lower Chamber, but may only suggest amendments to it and refer it back to the Lower Chamber for consideration of the amendments. In the event of the Lower Chamber refusing to accept all or any of the amendments suggested, the decision of the Lower Chamber will prevail. In the event of the demand for any grant being rejected or reduced by the Lower Chamber, it shall be laid before the Upper Chamber which shall have power to restore the grant, subject to a reference to a joint session, should the Lower Chamber again refuse to approve the demand restored by the Upper Chamber. No resolution affecting the religious, social or educational interests of any community should be proceeded with in either Chamber if opposed by at least two-thirds of the members of that community.

The Maharaja, however, thinks that instead of at least two-thirds, it should be at least three-fourths of the members.

Motions of censure on the Ministers may be made in either Chamber. If a motion is rejected in the Chamber in which it is made, it will fail. If having been passed in the Chamber in which it is made, it is rejected in the other Chamber, a joint session will be held on the request of the mover of the motion.

It is suggested that the Ministry should be represented in both Chambers, that any Minister should have the right to speak in both Chambers, but should vote only in the Chamber of which he is a member.

THE EXECUTIVE.

20. The form of the Government should be unitary. The executive Government should consist of—

(1) the Governor to be appointed by the Crown, and

(2) a Cabinet of seven Ministers to be appointed by the Governor, one of whom should be nominated by the Governor as President to preside over the meetings of the Cabinet.

All the Ministers should have *joint responsibility*. The Ministers should be selected from both Houses. The Ministers as well as the Secretaries to Government (who are members of the legislature) may at any time speak in either House, but they should only be Members of one House and will have the right of voting in one House only.

The Committee would prefer one of the Ministers to be the Prime Minister, but it does not see how this would function until the communal difficulty is disposed of. Otherwise under normal circumstances the leader of the largest party ought to be the Prime Minister.

The Ministers should be selected from important communities according to their *representation in the Council*. Exceptions, however, may arise when appointing a Minister from a community which is numerically small.

The salaries of all Ministers should be fixed by statute.

The portfolios will be allotted to the Ministers by the Governor.

[*N.B.*—There is an alternative scheme which appeals to some of the members, viz., that the Cabinet should consist of not less than six and not more than nine Ministers, one of whom should be chosen as Prime Minister by the Governor. A maximum salary as at present, viz., Rs.5,333-5-4, and a minimum salary, viz., Rs.3,090, should be fixed by statute. On the advice of the Prime Minister the Governor will select two-thirds of Ministers of his Cabinet who would draw the maximum salary and one-third a lesser figure. This will enable the Cabinet to include within its fold leaders of various groups, large and small, as occasion arises. This method would also correspond to what is in vogue in other countries where there

is a constitution more or less of a similar pattern. Incidentally a provision of this character would give the Chief Minister a greater opportunity of securing stability, more particularly if the group system rather than the " two parties " system prevails in the Council.]

PUBLIC SERVICES AND PUBLIC SERVICE COMMISSION.

21. We recommend the creation of a Provincial Public Services Commission which should deal with recruitment to all Provincial Services and should hear appeals from members of such services with regard to orders of dismissal, removal or reduction.

It is of paramount importance that the permanent services should be beyond the corroding influence of political patronage or bias. The question of the control of promotion, postings and transfers is more difficult, since a Minister might find his activities hampered unless he has some control over his administrative staff. Nevertheless it would be wise to leave this control with the Public Services Commission for a period of years, to terminate under the Act. Meanwhile the Commission should make all recommendations to the Minister-in-charge of the Department concerned. Where a Minister differs from the Commission, a reference should be made to the Governor.

[The Maharaja, however, thinks that the Public Services Commission should have nothing to do with promotions, postings and transfers of the Provincial Services which will be left with Departmental heads as now, but every public servant will have the right of appeal to the Public Services Commission, and their decision will be final subject to the approval of the Governor.]

The position of the permanent services in India should be the same in all respects as it is in Great Britain. The present all-India Services should be recruited and controlled as at present for some time to come. Thereafter recruitment and control will be exercised by the provincial authority.

Appropriate provisions should be made for the proper and adequate representation of different communities in all the public services in accordance as far as possible *with their proportion in the population of the province*, subject of course to the necessity of maintaining efficiency.

Indianisation should not be proceeded with to the detriment of any particular community, but should be carried out gradually with due regard to the communal proportion and to the securing of the widest possible confidence in the administration.

MOSLEM EDUCATION.

22. The Committee would like to draw the attention of the Statutory Commission to the educational backwardness and the

educational needs of the Moslems of Bengal and would refer the Commission to the memorandum of its Chairman submitted to the Hartog Committee, which is included in the appendix to this report.

Bribery and Corruption.

23. Paragraph 91 of the Muddiman Committee's report says—

"The corrupt influencing of votes within any of the legislative bodies by bribery, intimidation and the like should be made a penal offence, and this should not be dealt with at present as a question of privilege.

"Under the law as it stands, though to bribe an elector is an offence, it is not an offence either to tender a bribe to, or to receive a bribe by, a member of a legislature in India as an inducement to him to vote in a particular manner. On the other hand, the intimidation of a legislator for that purpose is covered by Sections 503, 506 and 507 of the Indian Penal Code. To give effect to the recommendation of the Committee action is therefore required only in respect of bribery. It is therefore necessary to penalise—

(1) the offering of a bribe to a member of a legislature in connection with his functions as such; and

(2) the receipt or demand by a member of a legislature of a bribe in connection with his functions as such."

The prevalence of bribery should be put an end to on the lines existing in the United States of America and Canada. Unless it is abolished, respectable people will not be willing to come forward for election or agree to work as Ministers.

High Court.

24. The High Court should be a central subject as at present. But the administrative control of Subordinate Courts at present exercised by the High Court should be transferred to the Local Government.

The Maharaja Sashi Kanta Acharjya Chaudhuri, however, thinks that the High Court should be a provincial subject and not a central subject as at present.

Chittagong Hill Tracts and the Darjeeling District.

25. We do not think that the Chittagong Hill Tracts should be brought under the Reforms. The transfer of Darjeeling should depend upon the real wishes of the people of the district, to be ascertained by a Committee of Inquiry.

Territorial Redistribution.

26. The Committee agree in thinking that there is no need at present to recommend any changes in the boundaries of this

province. This is a large question and should any occasion arise, it may be left to be considered by the Central Government.

Permanent Settlement.

27. The Indian Statutory Commission during their stay at Calcutta went very thoroughly into the question of the Permanent Settlement in Bengal. As a result of careful scrutiny it was found that if the Permanent Settlement were done away with, it would yield some 80 or 90 lakhs of rupees. Now the question is, whether the pledges after pledges given by the British people and Parliament to respect the Permanent Settlement should be broken for the sake of this paltry sum when it would not only be the very worst form of breach of faith, but would entail in its train a complete social upheaval which is not unlikely to lead to a revolution. It would affect not the zamindar so much as the hundreds of other intermediary tenure-holders under him, not to speak of the tiller of the soil who would scarcely be able to bear the strain.

General Conclusions.

28. It only remains to summarise our main conclusions. The ultimate goal, so far as this province is concerned, is complete provincial autonomy, in other words, autonomy *vis-à-vis* the Central Government and the establishment of an internal political system of full responsible government. For the attainment of this goal, immediate steps recommended are :—

(*a*) Financial adjustment as between the province and the Central Government in order to provide for not only financial stability, but also expanding finance enabling the local administration to push on with all nation building schemes.

(*b*) Transfer of all provincial subjects, excluding police, to the charge of popular Ministers responsible to and removable by the legislature, or, according to some of us, the inclusion of police in the transfer with necessary safeguards.

(*c*) A strong Central Government of a federal type capable of exercising a unifying influence over the country as a whole both by legislation and by administrative action.

(*d*) The Governor should be appointed by the Crown and should be the constitutional head of the province. He should have powers of authorising expenditure in case of emergency for carrying on the administration of any Department or of all Departments in case of a breakdown as a result of political deadlock, and also to interfere with or overrule the decision of the Cabinet for the purpose of enforcing or rejecting measures affecting the safety and tranquillity of the province. He should have the power of

appointing or dismissing any Minister or Ministry, and dissolving the legislature if he considers that the safety or tranquillity or the interests of the province demand such dismissal or dissolution.

(*e*) The Provincial Legislature should be bi-cameral and of a more representative character than it is at present. The two important communities, according to the majority view, should be represented *according to their proportion in the population*, and other important interests should be adequately represented in the Legislative Council. The ultimate authority of the legislature should vest in a joint session of the two Chambers, whether in matters of legislation, supply or vote of censure.

(*f*) Separate communal electorates should be retained and should be extended to all local self-governing bodies.

(*g*) Franchise qualifications of electors for rural constituencies should be lowered to the level of union board franchise qualifications.

(*h*) The Executive will consist of either seven Ministers or any number not less than six and not more than nine chosen by the Governor from both the Houses and from different communities in proportion to their representation in the legislature, except however when necessity arises for appointing a Minister from a community which is numerically small, provided that that Minister has a following; the Ministers will be jointly responsible to and removable by the legislature.

(*i*) There should be a Provincial Public Services Commission with functions as detailed in the main body of our report. The personnel of the Commission should be composed of members belonging to different communities.

(*j*) There should be proper and adequate representation of different communities in all the Public Services in accordance as far as possible with the *proportion of their population in the province* subject to the paramount necessity of maintaining efficiency.

(*k*) Prevalence of bribery and corruption within the legislature as well as in the constituencies should be put an end to on the lines existing in the United States and Canada.

Before concluding our report we desire to place on record our appreciation of the opportunity afforded to us for taking part in this momentous work, and we wish to express our gratitude to the distinguished Chairman, no less to his colleagues for their unfailing help and courtesy extended to us at all times and for the untiring patience with which they heard all the evidence adduced in this province both by various public bodies as well as individuals.

We fervently hope that as a result of our joint labours, under benign Providence, India will march forward to her promised goal and will occupy her proper place in the Valhalla of Nations.

ABDELKERIM GHUZNAVI, *Chairman.*

S. K. ACHARJYA,
Maharaja, Mymensingh.
W. LANCELOT TRAVERS.
K. G. M. FAROQUI.
*A. K. FAZL-UL HUQ.

4th June, 1929.

PROBLEMS OF MUSLIM EDUCATION.

BENGAL MUSLIMS ENTITLED TO "REPARATIONS."

Memorandum by Alhadj Sir Abdelkerim Ghuznavi to Hartog Committee.

10 CRORES DEMANDED FOR EDUCATION OF MUSLIMS.

At the Hartog Committee's last sitting, held at Delhi, on the 2nd January, 1929, Alhadj Sir Abdelkerim Ghuznavi submitted a memorandum and was examined thereon:—

"During the regime of Lord Hardinge I had the honour of approaching him with regard to the question of Muslim education and thus, at the instance of the then Education Member, Sir Harcourt Butler, a conference of Muslim Members of Council was held at Delhi in March, 1913, with the result that a Government of India circular letter, dated April 3rd, 1913, was issued to all Provincial Governments, which in turn resulted in Bengal in the appointment, by the Government of Bengal's Resolution No. 2474, dated Darjeeling, June 30th, 1914, of a committee of official and non-official representatives of the Muslim community to consider the entire question of Muhammadan education.

This committee, of which I was a member, laboured for a year, at the end of which it submitted a report embodying some 197 specific recommendations. These are to be found in the Government of Bengal publication styled 'Improvement of Muhammadan Education,' Nos. 7-24, General Department file 7M.-3—2 of 1916.

Owing to the breaking out of the Great War and the consequent financial stringency, Government's action on the report was necessarily very disappointing. A few minor recommendations were given effect to, but the most important recommendation of the Committee (Resolution 76), which laid stress on special contributions from public funds to enable Muslim boys to take better advantage of the secondary school system, was shelved.

The recommendations of that committee hold good to this day and all that is needed is to give effect to them at long last.

The report contains an exhaustive note by me on both Muslim male and female education, which I desire to tender.

The whole crux of the problem so far as it concerns Bengal Muslims is the provision of a substantial scholarship fund with the object of qualifying a sufficient body of Muslim students to compete on equal terms with those of the other communities in the national life.

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* (*Vide* pages 171 and 176).

One crore for 10 years.—Mr. Dash, Secretary for Education, Bengal, has submitted a note in his personal capacity strongly urging that a sum of 50 lakhs of rupees be set apart annually for at least 10 years for this purpose. I would draw the attention of the committee to this note and press for it most strongly. I would, however, go further than this and urge with all the emphasis at my command that a sum of at least 1 crore of rupees be set apart for at least 10 years for the purpose of Muslim education in Bengal. This would enable provision to be made for a scheme for sending Muhammadan students for training to European countries in the manner of Japan, China, Turkey and Afghanistan.

I do not press for this merely on the ground of national advancement as it is perfectly certain that in the interest of the future Swaraj of the Bengalee people, unless Muhammadans are enabled to come up to the same level educationally as the Hindus, the chariot of political evolution drawn by Hindu and Muslim steeds will never be able to reach the summit of the hill of Swaraj.

My grounds for pressing for this grant of a crore of rupees are based at least on fair play and justice long overdue to the Muslims of Bengal.

Writing in 1871, this is what Sir William Hunter says: 'The Muhammadans are now shut out equally from Government employ and from the higher occupations of non-official life. Before the country passed to us they were not only the political but the intellectual power of India. They possessed a system of education which, however inferior to that which we have established, was yet by no means to be despised and was capable of affording a high degree of intellectual training and polish, and which was infinitely superior to any system of education then existing in India.

'At an outlay of £800,000 upon resumption proceedings, additional revenue of £300,000 a year was permanently gained by the State. A large part of this sum was derived from the lands held rent free by the Musalman foundations. Hundreds of ancient families were ruined and the educational system of the Musalmans, which was almost entirely maintained by rent fee grants received its death blow. The justice of these proceedings may, however, be defended, but the absolute misappropriation of scholastic funds cannot. It is painful to dwell on this charge of misappropriation because it is impossible to rebut it.'

Injury to Muslims.—A great injury has thus been inflicted on the Muhammadans of Bengal by the State, and the backwardness of the Muslims can be said to be due entirely to this act. The injustice then perpetrated has continued to this day to such an extent that out of a total of Rs.1,47,80,000 spent by the Government of Bengal for the education of the various communities, Muslims are only benefited to the extent of only Rs.35,67,000 as will be apparent from the various tables that are to be found in a certain memorandum that has been submitted.

For the last 50 years and more this has been more or less the ratio of the amount which has benefited the Muslims out of the total sums spent by Government on education. The Bengal Muslims therefore are justly entitled to some reparations, and the sum of a crore of rupees annually for at least a period of 10 years is indeed a very modest request having regard to the crores and crores that have gone to benefit other communities educationally. I have no hesitation in saying that purely on the ground of fair play and the injustice, consciously or unconsciously inflicted on the Bengal Muslims by the State, the Muslims of Bengal are more than justly entitled to this sum.

Memorandum on Muslim Education in Bengal: Duty of the State.—It is the paramount duty of the State to fill up the gaps in the rank of education and to range the various sections of the population in one advancing line of progress. Disparity of progress in education between the two important sections of the community cannot but be most baneful to the interests of the British Administration in general and to Muslims in particular. Unless Muslims are educated more largely in order to be

able to take an interest in the affairs of public life, Bengal cannot be expected to form a part of a self-governing Dominion within the British Empire.

Different stages of instruction.—Muslim boys form 66.6 per cent. in special schools and madrassahs, 50 per cent. in the primary stage, 19.3 per cent. in the middle stage, 15.5 per cent. in the high stage and 14.2 per cent. in the collegiate stage of general institutions. What is regrettable is that 39 per cent. of the children educated in schools relapse into illiteracy within five years of their leaving school. Muslims represent 55 per cent. of the population of the Bengal Presidency. In primary and secondary schools they hold their own. In higher classes of instruction their progress is far less marked. The poverty of Muslims and the absence of institutions of higher grades controlled and staffed by Muslim managers and teachers account for the smaller proportion of Muslim scholars in higher stages of instruction.

Muslim pupils are generally drawn from poorer classes, to whom nothing appeals which is denuded of Islamic religious instruction. Nowadays there is a passion for English education. No system meets with success which does not make adequate provision for it. It will not do to neglect English education as we have done in the past, but it has to be adopted with such safeguards as will preserve the tradition and revered ideals of Islamic culture and Islamic piety. It is high time that junior and senior madrassahs should be brought into line with middle and high schools. This, however, is not possible unless larger financial assistance is extended to them by Government. The problem that now faces the community is the maintenance of religious observance and discipline among the disintegrating influence of higher secular education. The cry is for the type of institutions which, while imparting to Muslims a modern type of education, will yet not lose sight of Islamic culture.

Linguistic difficulty.—The linguistic difficulty which the Muslim student has to face is almost insurmountable. He has to learn the language of his scripture, the language in which his past history and traditions are treasured up, the language of the Court and his own vernacular. The difficulty of Bengal Muslims has been augmented by the fact that their vernacular is other than what is the vernacular of the rest of the Indian Muslims. With the elimination of Persian and gradual replacement of Urdu by Bengali, the language difficulty can become less marked in a revised system of education.

Greater Muslim representation.—Greater representation of Muslims on governing bodies of colleges and managing committees of schools is an absolute necessity. Muslim boys naturally feel more secure when there are a certain number of persons of their own community among the managers and teachers. The presence of Muslim teachers gives confidence to Muslim pupils. At present Muslims constitute only 1 per cent. of the total strength of the teaching staff and 9 per cent. on the governing bodies of colleges.

It is of the utmost importance that teachers should be able to enter into the feelings of the students. The influence of a Muslim headmaster or secretary in an educational institution cannot be over-estimated. The school code makes no provision for the representation of Muslim interest either on the staff or the management, nor do the grant-in-aid rules attempt to safeguard such interest in schools or colleges. In the present condition of India, communal representation is a necessity in matters of educational administration as in other branches of administration.

Muslim Hostels.—Hostels form an important adjunct of educational institutions. In them the tone of thought should be congenial to Muslims, their ways of life and their social and religious needs. Hostels which were once filled to overflowing now present a deserted appearance owing

to the imposition of high seat rents, taxes and rates on the poor inmates. Considering that Muslims have just been awakening to the necessity of high education, any embargo on the admission of Muslim boys into hostels should at once be removed by exemption from payment of heavy imposition.

More Muslim headmasters.—Larger employment of Muslim teachers and inspecting officers in the educational services would be a great incentive to Muslim education. An examination of the educational cadre will show that it is only in the lowest rung of the service ladder that Muslims are prominent. Their proportion dwindles into insignificance as we go higher up in the cadre. If any one thinks that competent Muslims are not available, he is surely unaware of the progress the community has lately made in education. There is need for more Muslim headmasters and district inspectors to encourage secondary education among the Muslims.

Calcutta University.—Representation of Muslims is very meagre on the University which guides the destiny of higher education. "Of recent years the University's interpretation of the needs of the public has been mainly inspired by one dominant personality with much resultant unrest." The Senate, the Syndicate, the Secondary Board, the Appointments Board and the Board of Studies have no small share in shaping educational ideals. The absence of Muslims in any of those bodies hampers not a little the growth of Muslim culture.

There should be statutory provision regulating the representation of different interests in every constituent body of the University. Although Muslim candidates for the University Examination form one-sixth of the total number of such candidates, representation of their interest on the University may be characterised as next to nil. In the words of the Commission, "in the higher education of the Presidency Hindus and Musalmans should co-operate, each considerately respectful of the other's convictions and ready to preserve communal traditions within the wider framework of the University corporate life."

Since the creation of the Calcutta University by the Act of Incorporation passed on the 24th of January, 1857, there has not been a single Muslim Vice-Chancellor up to this day. Surely this ought to be a sufficient commentary on how Muslims have been entirely shut out from the executive of the Calcutta University, which is a close body, impervious to Muslim sympathy far less to Muslim influence, and it is time that this state of things is mended.

Political significance of education.—The educational problem of Bengal has a political significance. It is true that Muslims lag far behind their Hindu brethren in the field of higher education, but it is equally true that they have a stake in the country which cannot be ignored in the interest of its administration. Unless Muslims who form more than half the population of the Presidency are raised to the level of the more advanced section, no measure of reform will contribute to the growth of a feeling of solidarity so essential to national achievement.

Representation in local bodies.—The principle of communal representation should be carried to local bodies including the municipalities, the district boards and the local and union boards. Never will these institutions succeed in training the people to govern themselves unless the various sections of the community participate each according to its proportion in the control of affairs entrusted to them. The destiny of Bengal can be built up only if the Hindus and Muslims are given equal facilities in the field of education and administration under proper guidance.

Religious instruction.—Diffusion of knowledge and national consciousness roused by education contribute largely to the destruction of superstitution and help in rescuing people from sensual indulgence and

vicious and depraved habits. The question is whether education provided by the State should be entirely secular or should also include religious and moral instruction.

In Europe the connection of any State system of education with religion is an indissoluble union, the bonds of which are inseparable one from the other. In Japan the teaching of morals is based on the precept of the Imperial Rescript. In India, however, all classes of schools have more or less adopted the principle of aloofness. The present system fails to make any impression on the better and higher part of human nature and is therefore bound to foster discontent and bring Government into disrepute. Much of the unrest would disappear if the boys at school were taught to acquire faith in God and a hereafter where good actions would be rewarded and bad actions punished.

Religion as basis of morality.—Moral training and religious instruction are essentially inter-dependent. Religion is the ultimate basis of morality. If the cardinal truths of religion are realised that there is a Supreme Ruler of the Universe, Who knows and sees everything and is present everywhere and is Almighty, and that we are responsible to Him for our actions both here and hereafter, they cannot but influence our conduct every moment. No education is complete which does not awaken in man some notion, however imperfect, of Him who is the Supreme God.

The education of our youths cannot be supposed to be complete unless moral and religious instruction is allowed a place in the curriculum of schools. The present spirit of discontent, disloyalty and disrespect to superior and constituted authorities can be counteracted only by the erection of a more solid foundation upon which alone can be built up a strong and lasting edifice of intellectual, moral and spiritual culture.

In every educational institution which receives any aid from Government it should be insisted upon that provision be made for religious instruction suited to the different communities on pain of withdrawal of Government grant.

Vocational training.—Mr. Dash in his note has referred to the danger of throwing on the employment market a large number of Muslim students who would require some professional career. This danger exists already in a considerable degree at the present day when thousands and thousands of graduates are turned out by the Universities, notably the Calcutta University, that yearly go to swell the ranks of the unemployed and the discontented. Hundreds of graduates will be found nowadays answering to an advertisement for a clerkship on Rs.25 a month, whereas it is difficult to obtain the services of a menial servant, such as a cook or a chauffeur, at anything like that figure.

It is time, therefore, that some radical changes were introduced in the system of education which is imparted to our students. I strongly urge that vocational training suited to different students should be made a part of the curricula from the very beginning and facilities should be given for technical instruction of some sort right through.

Bengal is largely an agricultural country. I would not be far wrong if I were to say that 80 per cent. of Muslim students are drawn from the agricultural classes. Agriculture has so far been woefully neglected. The entire poverty problem, to my mind, can be solved if proper agricultural training is imparted from the very beginning to students drawn from those classes. I would therefore urge that provision should be made for such compulsory instruction from even the primary stage.

The reason for our insisting on our denominational institutions is because it is there that provision is made for imparting religious instruction and therefore these are the schools that attract Muslim students most. If, however, provision were made for imparting religious instruction to Muslim boys in other educational institutions and seats were reserved for them in proportion to their population and provision also

made for adequate representation of Muslims in the teaching staff and on the managing bodies of those institutions, the necessity for insisting on purely denominational institutions would not be so strong.

Dacca University.—Muslims of East Bengal were given a sop in the shape of a Muslim University at Dacca. That University was given a capital grant of roughly 65 lakhs of rupees by the Government of India, which, however, merged in the Financial Balances. Thereafter the University authorities budgeted for a recurring grant of seven and a half lakhs, but could only secure five. It is only recently that a non-voted grant of five and a-half lakhs has been sanctioned. Furthermore, Muslim representation in the controlling body of the University is diminishing, as is also the European element on the teaching staff which is for the present so essential.

Female education.—An interesting discussion followed on female education. It was complained that practically the whole grant of 6½ lakhs for female education was spent for the education of Hindu girls and there was not a single well conducted institution in Bengal where they could send their children. They desired to educate their girls under proper Islamic discipline and they rather preferred to keep them at home than send them to Hindu schools. Replying to Dr. Mrs. Reddy, Sir Abdelkerim said there was no hostility amongst Muslims against female education, but on the other hand there was a general desire for it. Even compulsion could be used if provision for purdah, female staff and teachers and Islamic religious teachings were secured.

Purdah necessary.—Sir Philip Hartog pointed out that the cost of educating Muslim girls was double that of Hindu girls because of purdah. Witness agreed, but held they could not run contrary to the dictates of their religion. Sir Philip pointed out that there were great differences of opinion on that issue, but agreed with Sir Abdelkerim that that should not be an excuse for inadequate provision for Muslim female education. Purdah will drop out automatically. To-day Muslim ladies kept inside because the whole community was against it. Dr. Mrs. Reddy suggested that a sum of 50 lakhs be set apart for Muslim education in view of the fact that they wanted 1 crore for the education of boys only. Sir Abdelkerim replying said the fund should not be earmarked for the education of boys only but for general Muslim education.

Summing up, Sir Abdelkerim Ghuznavi proposed that—

(*a*) A sum of at least 1 crore of rupees must be set apart for at least 10 years for a substantial scholarship fund, part of which would provide for a scheme for sending Muhammadan students yearly for training to Europe. Bengal, he said, was the fittest province to carry out his suggestion. Jute, which was entirely grown by Muslims, yielded a large revenue to the State and so did Income-tax. He urged that a part of the revenues from jute may be earmarked for Muslim education.

(*b*) Junior and senior madrassahs should be brought into line with middle and high schools.

(*c*) Compulsory religious instruction to be provided in all schools.

(*d*) Language difficulty to be solved by gradually replacing Urdu by Bengalee.

(*e*) There should be adequate representation of Muslims on governing bodies of colleges and managing committees of schools.

(*f*) Embargo on the admission of Muslim boys into hostels should be removed by exemption from payment of heavy impositions.

(*g*) Provision should be made for the larger employment of Muslim teachers and inspecting officers in the educational services.

(*h*) Statutory provision should be made regulating the representation of different communities and interests in every constituent body

of the Calcutta University. There should be adequate representation on the Senate, the Syndicate, the Secondary Board, the Appointments Board and the Board of Studies of the Calcutta University.

(*i*) Adequate representation of Muslims to be provided on the education committees of the municipal, the district, the local and the union boards.

(*j*) Provision should be made for the vocational training suited to different students in the curricula from the very beginning, and facilities should be given for technical instruction of some sort right through.

(*k*) Agricultural training in particular should be imparted from the very beginning to students, particularly those drawn from the agricultural classes.

(*l*) Provision should be made for imparting religious instruction to Muslim boys and sufficient number of seats on population basis reserved in all non-denominational institutions. Provision also should be made for the adequate representation of Muslims on the managing bodies of those institutions.

(*m*) Grant-in-aid rules should be relaxed for Muslims in order that they may obtain adequate share from the public grants.

Report

of the

United Provinces Committee.

PERSONNEL OF THE COMMITTEE.

(1) Mr. J. P. SRIVASTAVA, M.Sc., A.M.S.T., M.L.C. (representative of the Upper India Chamber of Commerce)—*Chairman.*

(2) The Honourable Raja Bahadur KUSHALPAL SINGH, M.A., LL.B., M.L.C. (Non-Muhammadan Rural, Agra district), Minister for Education and Industries, United Provinces.

(3) Khan Bahadur HAFIZ HIDAYAT HUSAIN, B.A., Bar.-at-Law, M.L.C. (Muhammadan Rural, Etawah, Cawnpore and Fatehpur districts).

(4) Dr. SHAFA'AT AHMAD KHAN, M.A., Litt.D. (Dublin), M.L.C. (Muhammadan Rural, Moradabad North).

(5) Rai Bahadur Kunwar BISHESHWAR DAYAL SETH, B.Sc., F.C.S., M.L.C. (representative of the British Indian Association of the Taluqdars of Oudh).

(6) Mr. H. C. DESANGES, Bar.-at-Law, M.L.C. (Government nominee to represent the Anglo-Indian Community).

(7) Babu RAMA CHARANA, B.A., LL.B., M.L.C. (Government nominee to represent the Depressed Classes).

Mr. H. K. MATHUR, B.A., LL.B., U.P.C.S., *Secretary.*

NOTE.

The total expenditure incurred by the Committee was approximately Rs.19,000.

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REPORT.

To the Right Honourable Sir JOHN SIMON, P.C., K.C.V.O., K.C., M.P., Chairman, Indian Statutory Commission.

SIR,

We have the honour to submit, for the consideration of the Indian Statutory Commission and the Indian Central Committee, our report on the working of the Reformed Constitution and suggestions for the future Constitution of these provinces.

ELECTION AND PERSONNEL OF THE COMMITTEE.

2. In pursuance of your desire expressed in your letter to His Excellency the Viceroy, dated 6th February, 1928, for the constitution of committees of the Indian and the Provincial Legislatures to confer with the Indian Statutory Commission in "Joint Free Conference," the United Provinces Legislative Council at its meeting held on 18th September, 1928, passed the following resolution on the motion of the Honourable the Finance Member :—

> "That the Legislative Council do elect during its present session, on such date as may be fixed by the Honourable the President, a Committee consisting of seven non-official members to take part in the Joint Conference of the Indian Statutory Commission."

We consider it necessary to mention that before the resolution was moved the leaders of the Nationalist and the Swaraj Parties in the Council made statements protesting against the procedure adopted by the Government in regard to the said motion after the Council had passed a resolution in its February session expressing its desire not to co-operate with the Indian Statutory Commission, and that after making these statements, the members of the said parties withdrew from the Chamber and took no part in the election of the Committee. In pursuance of the said resolution we were elected on 20th September, 1928. A reference to the personnel of our Committee will show that, broadly speaking, it is composed of four Hindus, two Musalmans, and one Anglo-Indian. Of the four Hindus, the Chairman, Mr. J. P. Srivastava, is a representative of the Upper India Chamber of Commerce; Kunwar Bisheshwar Dayal Seth is a representative of the British Indian Association (a body which contains within its fold all the Taluqdars of Oudh); the Honourable Raja Bahadur Kushalpal Singh is a representative of an important rural constituency, who, moreover, soon after his election to the Committee was appointed a Minister and still holds that office, and Babu Rama Charana is a nominated member representing in the Council the Depressed Classes. The two Musalmans are Khan Bahadur Hafiz Hidayat Husain and

Dr. Shafa'at Ahmad Khan. Both are prominent representatives of their community in the local Council. Mr. Desanges is Government nominee to represent in the Council the Anglo-Indian community. It is a matter for some regret that as a result of the unfortunate decision of the Nationalist and Swaraj Parties to have nothing to do with the Statutory Commission, a section of the Council was unrepresented on the Committee, but as will appear from the description of the personnel just given, the Committee was as representative as was possible in the circumstances of the case. In all our deliberations we have not been unconscious of the fact that we have not had the benefit of the broad field of opinion of the section to which we have just referred.

TERMS OF REFERENCE.

3. We were given no specific terms of reference, but in view of your well-known letters to His Excellency the Viceroy, dated 6th February and 28th March, 1928, we assume that we are to be guided by the provisions *mutatis mutandis* of Section 84A of the Government of India Act, 1919, with the restriction that we have to confine ourselves mainly to the problems as appertaining to the United Provinces of Agra and Oudh. Section 84A of the Government of India Act says that the Commission shall be appointed " for the purpose of inquiring into the working of the system of government, the growth of education, and the development of representative institutions, in British India, and matters connected therewith, and the Commission shall report as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify, or restrict the degree of responsible government then existing therein, including the question whether the establishment of second chambers of the local Legislatures is or is not desirable."

We have kept in view the important test laid down by the Parliament in the Government of India Act, 1919, regarding the Parliament further divesting itself of its responsibility for the good governance of India, namely, " the measure of co-operation received from those on whom new opportunities for service were conferred and the extent to which it has been found that confidence can be reposed in their sense of responsibility." Accordingly, we have confined our inquiry to the working of the existing Constitution in its important aspects in these provinces, and our proposals relating to the form of government that in our opinion should be established in these provinces are based on the conclusions which we have been able to draw from this inquiry.

MEETINGS OF THE COMMITTEE.

4. The Committee first met on 28th October, 1928, and unanimously elected Mr. J. P. Srivastava as its Chairman. We have

had 24 meetings of the Committee to discuss procedure, proposals and the present Report. Besides, we sat for eight days in Joint Free Conference with the Commission and the Central Committee at Lucknow from 30th November to 11th December, 1928, to hear the evidence tendered in these provinces. Lastly, we had three meetings with the other Provincial Committees and three with the Commission at Delhi from 30th March to 4th April, 1929. We have, thus, had in all 38 sittings.

Material Examined.

5. We had the privilege of listening to all the evidence tendered in these provinces, whether publicly or *in camera*, and we were furnished with copies of all the memoranda submitted to the Commission from these provinces and by bodies of an All-India importance. We were also furnished, at our request, with certain records of evidence tendered at Delhi and Calcutta. A list of the witnesses who came before us and of the memoranda and records of evidence that were supplied to us is appended to this Report (Appendix A). Besides these, we carefully followed all the Press reports of evidence tendered elsewhere in the country, of which we had collections made for our convenience. In enumerating the material that we have considered we should also mention the report of the All-Parties Committee commonly called the "Nehru Report," the Report of the Donoughmore Commission on the Ceylon Constitution and the various reports connected with the 1919 and the 1924 Reforms Inquiries.

Acknowledgments.

6. We would like to place on record our appreciation of the services rendered by Mr. H. K. Mathur, the indefatigable Secretary of our Committee for the ungrudging and efficient manner in which he has discharged his duties. Further, we have pleasure in acknowledging our indebtedness to Mr. T. Sloan, I.C.S., Officer on Special Duty in connection with the Indian Statutory Commission, for the uniform courtesy he has extended to us and for the promptness with which he has supplied us with whatever material we required for our use.

PART I.

REVIEW OF THE WORKING OF THE REFORMED CONSTITUTION IN THE UNITED PROVINCES.

General Atmosphere.

7. The Reformed Constitution was introduced in the year 1921, and in order that the results of the great constitutional experiment may be correctly estimated, it is necessary to describe briefly the atmosphere prevailing at and since its introduction.

The new Constitution started at a time when the Non-co-operation movement was daily gaining strength. Under the powerful leadership of Mr. Gandhi, the movement aimed at wrecking the new system of Government. The followers of that movement refrained from entering the new Legislative Council, but outside the Council they used every effort to bring the machinery of the administration to a standstill. In spite of this attitude of a by no means unimportant section of the people, the moderate elements decided to enter the Legislative Council and to work the new Constitution as best as they could. In the words of the United Provinces Government, " much credit is due to those who determined to assist the Government under such difficult conditions, because if they, too, had joined the popular movement the Reforms had been doomed from the outset." The Non-co-operation movement was coupled with the *Khilafat* movement under the influence of which a section of the Muhammadans also openly joined the ranks of those who wanted to smash the Constitution. It is, however, gratifying to note that there were even at that time responsible people who realised the real menace of the situation and, in the teeth of popular opposition, worked the Constitution with no small measure of success and thus enabled it to survive. By 1923 the clouds which had hung on the political firmament of the country began to disperse. The Non-co-operation and the *Khilafat* movements had begun to wane and the Muddiman Inquiry Committee, appointed in the year 1924, reassured the people to an extent that they saw very clearly the futility of having nothing to do with the Constitution which in spite of its imperfections came to be looked upon as a substantial first step in the journey towards responsible government. The resultant split in the Congress was a pregnant sign of the changing atmosphere, and the Swarajists, who decided to enter the Council, had decidedly the better of their non-co-operating colleagues. As already stated, the institution in the year 1924 of an inquiry into the working of the Reforms created new hopes in the minds of the people, and every community began to think that its future lay in obtaining for itself such concessions and safeguards as would secure its position in the contemplated future government of the country. To add to this, the *Shuddhi* and the *Sangathan* movements on the one side and the *Tabligh* and *Tanzim* on the other came into being about the same time. As a result of the communal estrangement these movements had begun to cause, the Muhammadans began to speculate what their position with the Hindu majority was likely to be if Constitutional Reform was carried further along the road leading to responsible government. It must be admitted that the communal tension which made its appearance in the year 1924 has not yet disappeared, and, as stated by the United Provinces Government, the real significance of this communal feeling is political rather than religious. It is only natural that every

community should put forward its demands and state its fears and doubts when political advance is under discussion. It must, however, be stated that the saner elements of every community are not unmindful of the great harm which communal tension is doing to the country at large, and there is no doubt that they would in time be prepared to sink their differences for the common good. Excepting for the communal virus, the working of the Reforms since 1924 has been fairly smooth in the province.

MINISTERS UNDER THE REFORMS.

8. The Transferred half of the Government has been administered by Ministers who have, on the whole, given a good account of themselves. Messrs. Chintamani and Jagat Narain, who were the first Ministers, resigned in the year 1923, and Sir William Marris replaced them in the year 1923 by a Ministry composed of two landholders—a Hindu, Raja Parma Nand, and a Muhammadan, Nawab (now Sir) Muhammad Ahmad Sa'id Khan. Raja Parma Nand died in December, 1923, and his place was taken in the following month by Rai Rajeshwar Bali, a Hindu landlord from Oudh. Nawab Muhammad Ahmad Sa'id Khan and Rai Rajeshwar Bali remained together in office till January, 1926, when the former was appointed a member of the Executive Council in succession to Maharaja Sir Muhammad Ali Muhammad Khan of Mahmudabad on the completion of the latter's term of office. The Ministry had, therefore, to be reconstructed in 1926, and advantage was taken of the reconstruction to add to the number of the Ministers. The Ministry, as reconstructed, therefore, consisted of three Ministers, two of whom were Hindus and one a Muhammadan. The two new Ministers were both landlords: Thakur Rajendra Singh from Oudh and Nawab Muhammad Yusuf from Agra. These three Ministers together continued in office till June, 1928, when the two Hindu Ministers, Rai Rajeshwar Bali and Thakur Rajendra Singh, resigned as a result of their decision not to co-operate with the inquiry of the Indian Statutory Commission. Their place was taken by Raja Jagannath Bakhsh Singh and Maharaj Kumar Major Mahijit Singh, both of whom were, again, landlords. Raja Jagannath Bakhsh Singh's appointment proved unpopular, and he had to resign as a result of a vote of no-confidence passed against him in September, 1928. He was succeeded by another landlord, Raja Bahadur Kushalpal Singh, who together with Maharaj Kumar Major Mahijit Singh and Nawab Muhammad Yusuf constitutes the present Ministry.

It will thus be seen that the history of the Ministry from the time of the introduction of the Reforms to the present day is not one of violent vicissitudes. On the contrary the Council, in spite of the opposition of a certain section of it, has been very considerate and indulgent with all the incumbents who have held office from time to time.

RESERVED DEPARTMENTS UNDER THE REFORMS.

9. In regard to the Reserved half, the portfolio of the Home Department has been continuously held by non-official Indians since the introduction of the Reforms. The first incumbent of this office was Maharaja Sir Muhammad Ali Muhammad Khan whose term lasted from January, 1921, to January, 1926. He was succeeded by Nawab Sir Muhammad Ahmad Sa'id Khan who still holds that office. Sir Harcourt Butler, addressing the first meeting of the Reformed Legislative Council in January, 1921, stated that it was his desire that the two halves of the Government should work together, as far as possible, as one. He achieved a certain measure of success in this attempt although towards the end of his régime he found that in the special difficulties of the time—those were the days of the Non-co-operation movement at its height—the attempt to work the dyarchical system as a unitary one proved a handicap to the Governor in Council whose primary duty was to maintain peace and prevent the outbreak of disorder, to attain which object he had to agree to the application of the Criminal Law Amendment Act to this province, a measure which proved extremely unpopular. Sir William Marris who succeeded Sir Harcourt Butler as Governor at the end of 1922 made no attempt to return to a unitary system. He held regular meetings of his Executive Council and he met his Ministers individually, but he did not hold meetings with them as a Ministry, though his rules of Executive business recognised that such meetings might be held. The existing provision in the Government's rules of Executive business gives the Governor the discretion to direct that a case shall be discussed at a meeting of the Council and Ministers sitting together, but in 1925 the Reforms Inquiry Committee made the recommendation that joint deliberations between the two sides of the Government on important questions should be definitely enjoined by rule. The members of the Executive Council and the Ministers agreed with this proposal, but Sir William Marris very strongly opposed it on what he called " practical grounds." Sir William Marris felt so strongly on this matter that he intimated to the Government of India that in so far as he had discretion he would refuse to make such a rule as was proposed, his main objection being that joint deliberation without common responsibility can lead neither to efficiency in the administration nor to harmonious relations between the two sides of the Government. Joint deliberation has, however, taken place under Sir William Marris, Sir Alexander Muddiman and Sir Malcolm Hailey as occasion demanded. What Sir William Marris insisted on was that the half of the Government responsible for the subject under discussion must subsequently come to a separate decision for which it took full responsibility. There was to be no blurring of responsibility.

SERVICES UNDER THE REFORMS.

10. The introduction of the Reforms created a profound depression on the minds of the members of the All-India Services

who were uncertain of the effects of the changes on their future prospects. It was not unnatural that for a time the Services lost heart, but since 1924 the feeling of depression has largely disappeared.

FINANCIAL STRINGENCY.

11. The working of the Reforms has also been seriously hampered by the financial stringency which has prevailed ever since their introduction. During the War, and for some time after its close, all schemes involving new expenditure which came in the train of the Reforms had been held up. The financial settlement gave an apparent advantage to the province by increasing its financial resources by nearly 1.6 crores, but this advantage very soon disappeared as a result of the substantial increases of pay which the Government had to give to all its servants owing to the rise in prices and also as a result of the additional expenditure which had to be incurred in order to work the more costly machinery of the Reforms. There was some falling off of the revenue from stamps and excise and the position became acute with a rising expenditure and a diminishing revenue. The axe of economy and retrenchment was freely applied, but in spite of this one deficit budget followed another. The contribution to the Government of India had become unbearable and it is only since its complete remission in the year 1927 that the financial outlook has comparatively improved. Even now the resources of the province are not capable of expansion. There are schemes of developments awaiting, but for lack of funds there seems no prospect of their being proceeded with in the near future. In judging the success or failure of the administration of the nation-building departments one must not forget that progress without the necessary finance is impossible to achieve.

INHERENT DIFFICULTIES EXPERIENCED IN WORKING DYARCHY.

12. The defects of dyarchy are recognised on all hands and the system of Government which the provinces have so far had to make the most of is inherently unworkable in so many details that whatever success it has achieved during the last few years must necessarily be attributed to a spirit of goodwill and reasonableness in those who have had to work it. The question of relationship between the Governor and his Ministers is one which bristles with difficulties. There was never any intention that the Governor should occupy the position of a purely Constitutional Governor bound to accept the advice of his Ministers, but it is said to have been agreed from the very beginning that the Governor's powers of rejecting his Ministers' advice should be subject only to certain restrictions defined in an Instrument of Instructions. According to the Government of India Act " in regard to transferred subjects, the Governor has to be guided by the advice of his Ministers unless he sees sufficient reason to dissent from them, in which case he may

require action to be taken otherwise than in accordance with their advice." This provision has to be read along with the Instrument of Instructions, " where the Governor is directed, when considering a Minister's advice, and deciding whether or not to dissent from it, to have due regard to his relations with the Legislative Council and to the wishes of the people as expressed by their representatives in the Council." It will be seen that the Governor has a wide freedom of action, but he is faced with a practical difficulty which might arise in case he decides to reject the advice of a Minister who has the support of a majority of the Legislature. Such a Minister will very likely resign when he finds that his advice has not been accepted by the Governor, who will be unable to find a substitute for him as the Legislature will not support a new man appointed in these circumstances. The only alternative open to the Governor will then be to dissolve the Council. It is not an uncommon complaint that the Ministers do not have sufficient freedom in their own departments, but with the powers of the Governor, as they stand in the existing Constitution, nothing else could be expected. The Reforms Inquiry Committee recommended that the powers of the Governor should be curtailed and that he should not dissent from his Ministers except—

(1) to prevent unfair discrimination among classes and interests;

(2) to protect minorities;

(3) to safeguard his own responsibility for Reserved subjects; and

(4) in regard to the interests of members of the permanent services.

The Governor in Council very strongly opposed this attempt to catalogue powers narrowly. It has been said that dyarchy could not have lived a day unless there was a good deal of mutual forbearance and a spirit of " give and take." The relations between the two parts of the Government have been very difficult of adjustment. Rules were made to regulate the disposal of (*a*) cases the decision in which lay with one department, but which affected the interests of both Reserved and Transferred departments; and (*b*) cases the actual jurisdiction of which was doubtful. These rules are described at page 27 of the United Provinces Government's Report on the Working of the System of Government (E. U. P.-216) and these may be said to regulate the domestic relations of members and Ministers. In spite of the existence of these definite rules regulating procedure, difficulties and differences of opinion have not been altogether absent. The division of funds available for expenditure between the Reserved and the Transferred departments has been an occasional matter for disagreement, although in the end amicable agreement was reached in every case. Secretariat appointments in Transferred departments have given rise to some difficulty.

As distinguished from their domestic relations, the public relations of the two parts of the Government have also given rise to difficulties. The Joint Select Committee of Parliament was of opinion that generally members of the Executive Council and the Ministers should not oppose each other by speech or vote, but it was in favour of giving freedom to both members of the Executive Council and to Ministers not to support each other by speech or vote in respect of proposals of which either of them did not approve. In other words, they were to be left free to vote for each other's proposals when they were in agreement with them. During the discussion of the District Boards Bill in the Council on 6th November, 1922, the Minister in charge was opposed to a certain amendment, in which matter the two members of the executive Council and all, except one, of the official members voted against the Ministers. On another amendment also both members of the Executive Council and several other officials went into the lobby against the Ministers. Ministers have never actually voted against the Reserved side of the Government, although in more than one case they have abstained from voting, as they did not approve of the policy. During the discussion on the Oudh Rent Bill and on certain motions on the Police Budget, as also on resolutions which determined that the site of the new Council Chamber should be in Lucknow and on that recommending the establishment of a Chief Court for Oudh, the first Ministers refrained from voting. The most recent instance of abstention is that of the two Hindu Ministers on the resolution moved in February, 1928, urging boycott of the Indian Statutory Commission. The action of the Ministers in remaining neutral resulted in the defeat of Government by one vote—they justified the course they adopted on the ground that opinion in the Council was so sharply divided that they considered it best not to go into the lobby with one party or the other.

Absence of joint responsibility in the Ministry.

13. No attempt has been made in this province, excepting by the first Ministry and to a limited extent, very recently, by the Ministers to act in concert under some kind of a joint responsibility. The Joint Select Committee thought that Ministers would wish to act together and that it was better that they should do so. It is doubtful whether the Government of India Act recognises this fact or not, as sub-section (3) of section 52 of the Act which relates to this matter, is vaguely worded. The United Provinces Government has stated in its Report on the Working of the Reforms that to obtain a suitable Ministry composed of Ministers who would act together would be a matter of very considerable difficulty, so long as no single party has a clear majority in the Legislature, and so long as communal feeling is as acute as it has been recently. The Reforms Inquiry Committee were clear in their recom-

mendation on the subject. They thought that the Instrument of Instructions should be amended with the object of providing that the administration on the Transferred side should be conducted by a jointly responsible Ministry. The Governor in Council of this province, as constituted in July, 1925, made no objection to this proposal, but no step seems to have been taken to translate the recommendation into practice until September, 1928, when on the resignation of Raja Jagannath Bakhsh Singh, Raja Bahadur Kushalpal Singh was appointed on the understanding that he and his two colleagues would observe joint responsibility, although of a limited kind. The present Ministry is pledged to stand or fall together; in other words, the joint responsibility extends only to motions of no-confidence which may be brought against any member of the Ministry. The fact that even the Transferred half of the Local Government has not been able to work collectively, is in itself a serious condemnation of the existing system of Government. Without acting jointly the Ministers cannot present a solid front to the parties in opposition and this strikes at the root of the development of responsible Government on party lines. The Reforms Inquiry Committee rightly stressed this point, and at least one important reason why the proper system has not developed is that the Ministers have been artificially supported by the official *bloc* in the Council.

Dyarchy—an impossible system.

14. Examined a little closely, a dyarchical system of Government would appear to be a contradiction in terms. So far as the Reserved side of the Government is concerned, the Executive consists of the Governor in Council primarily responsible to Parliament, but in practice generally dependent on the goodwill of a Legislature which is apt to be hostile and irresponsible on account of the fact that it is precluded from exercising control over that side of Government. On the Transferred side, there is a Governor acting with Ministers, theoretically responsible to the Legislature, but in so far that they do not command a majority, in practice generally dependent on the support of the official *bloc*. It has been the experience of Government that support was less readily accorded to measures promoted by the Reserved side, and frequently the Governor in Council has found himself in a minority in his own Legislature. It is not a very easy matter for the Governor in Council to override even in the Reserved field the view taken by his Legislature, and this has frequently imperilled the administration. The Governor is naturally reluctant to make use of his emergency powers and consequently has to give way in lesser matters in order to gain his way on essential matters. In respect of the Transferred departments the influence of the Legislature has been a still greater source of weakness to the Governor in Council. As the United Provinces Government has stated, " the

larger the amount of the support on which the Ministers can rely in the Legislature, the weaker may be the position of the Governor in Council in relation to the Legislature " and " the solidarity of the Government is threatened by any measure on the Reserved side which is likely to raise determined opposition in the Legislature, and to preserve the Government as a whole the Governor in Council is forced to go to the utmost limit of concession." This thought-provoking statement by the United Provinces Government calls for special mention. There is no doubt that the stronger the support of the Ministers in the Legislature, the more embarrassing their position is liable to become if they were to support the Reserved half contrary to the wishes of the Council. As the United Provinces Government puts it, this shows up " a serious inherent defect of the dyarchical system, namely, the weakening of the Governor in Council by the pressure of the Legislature on the Ministers and the weakening of the Ministers *vis-à-vis* the Legislature by reason of their connection with the Governor in Council." Another weakness of the Governor in Council results from the fact that subjects have to be classified into Transferred and Reserved. An illustration of this which might be mentioned here is that buildings for the Reserved departments are included in the budget of the Public Works Department which is a Transferred subject. If the Legislature refuses supply, the Governor in Council is helpless, since it is only in cases of emergency that the Governor is authorised to certify expenditure for Transferred departments and even then he can certify only such expenditure as may be necessary for the safety and tranquillity of the province or for the carrying on of the department. By this means the Legislature is in a position to hold up the work of a Reserved department which would prevent the Governor from fulfilling his responsibility for that department.

Interference from higher Authorities.

15. There have been cases in which interference from above has caused great embarrassment. In 1921 the Government of India and the Secretary of State attempted to exercise supervision in respect of the Oudh Rent Bill which would have caused considerable complications if, on the representation of Sir Harcourt Butler, the higher authorities had not decided not to pursue their intentions. There was no question of the legal right of these authorities to give directions, but the United Provinces Government, as constituted at the time, felt that in the particular case the right was exercised in a manner which showed a lack of appreciation of the local position and of the effects of the Reforms on its affirmative power of legislation. Another instance of the Government of India's interference related to the introduction within a specified time of certain reforms in Jail administration, which involved heavy expenditure. The Provincial Legislature would not have voted this expenditure

and the Governor, at the time, was not prepared to certify it. The Government of India, however, subsequently withdrew their time-limit for the introduction of these reforms. A difficulty of another kind, which was felt at the outset but has since disappeared, affected the services. There were certain members of the services who had not been appointed by the Secretary of State in Council and consequently their salaries were not protected from the vote of the Legislature, and in certain cases where the pay was protected, allowances remained subject to the vote. In such cases a clash between the Legislature and the orders of the Secretary of State was not unlikely. These difficulties were, however, removed by the passage of the Government of India Civil Services Act of 1925. So far as the Transferred side of the Government is concerned, the United Provinces Government has stated that it has no general complaint in regard to the manner in which either the Government of India or the Secretary of State has exercised his powers under Devolution Rule 49. While, however, there has been no ground for general criticism, instances of conflict have not been entirely absent. In 1921 the Government of India tried to force on the Local Government certain provisions in respect of the Allahabad University Bill which were acceptable neither to the Ministers nor to the Legislature. In the matter of services the relationship between the Transferred side of this Government and the higher authorities has from time to time given rise to a number of difficulties. In one case the Government of India formulated precepts for the provincial Public Works Department and subordinate services regardless of the fact that these were Transferred matters. In the case of an officer of an All-India Service who had been temporarily re-employed by this Government after his retirement, the Secretary of State sanctioned the grant to him of a passage to England despite the fact that the Local Government had already refused to grant the passage. The item was votable and the Legislative Council rejected the demand when it was put before it. Another instance of interference by the Secretary of State for India was when a Minister desired to reduce the number of administrative posts filled by members of an All-India Service operating in a department under him. Another Minister anxious to increase the Provincial Medical Service has found his hands tied by orders of higher authority in regard to the number of posts that must be reserved for officers of the Indian Medical Service. The United Provinces Government remarks that there appears to be no way out of such difficulties so long as the existing constitutional position is maintained and goes on to say that it is clearly impossible for the Secretary of State and the Government of India to surrender their control without which the position of members of the All-India Services operating in the Transferred field would be extremely precarious. Here is obviously a flaw in the Constitution which has to be made good. It sounds anomalous on the face of it that Ministers have not complete control over the All-

India Services administering Transferred departments and this fact has placed them on more than one occasion in a position of difficulty with the Legislative Council.

The circumstances which led to the resignation of the two Hindu Ministers last June are not without an important bearing on the inherently defective character of the present Constitution. Under Devolution Rule 5 the Ministers are bound to supply such information regarding Transferred subjects as the Government of India may require and in such form as they may direct. Under orders of the Government of India, the Ministers were required in the early stages to prepare material for submission to the Indian Statutory Commission in a certain form. The Legislative Council resolved to boycott the Commission and the Ministers, by not voting against the boycott, gave a clear indication that they did not wish to go against the mandate of the Council, but at a later date they made the declaration that they were prepared to submit the required information to the Government of India and not to the Commission. Meanwhile directions had been received that all material should be submitted direct to the Commission. The then Governor, Sir Alexander Muddiman, thought he was justified in asking of the Ministers their complete and unqualified co-operation with the Indian Statutory Commission. He also thought that if the two Ministers were not prepared to give this co-operation, he had every justification in asking them to resign so that he might seek for that co-operation elsewhere. It must be noted here that the Muslim Minister, Nawab Muhammad Yusuf, was openly and avowedly in favour of co-operating with the Commission, so that inside the Ministry itself there was a fundamental difference of opinion. As the Ministers had not accepted the principle of joint responsibility, they could afford to hold divergent views on even such an important matter as this.

Ministers and the Council.

16. The position of the Ministers *vis-à-vis* the Legislative Council has, on the whole, not proved a source of great difficulty. All the Ministers, who have so far held office, have received reasonable support from the Council which has shown no real desire to increase their difficulties and has on the whole been very tolerant. No Minister has had any real difficulty in getting his budget through the Council. It is remarkable that in the first Council the demands for the Transferred subjects were generally passed without a division. In the later Council on several occasions Ministers were defeated on votes for reduction of grants, but as admitted by the Government, in no case was the vote regarded as one of no-confidence. So far there have been no motions questioning a Minister's policy in a particular matter and, as already stated, there has been only one instance of the Council having passed a motion of no-confidence against a Minister.

MINISTERS AND THE HEADS OF DEPARTMENTS.

17. The relations between the Ministers and heads of departments and Secretaries working under them have been on the whole good. As the United Provinces Government has remarked, " the smoothness of the relations that have existed between the Ministers and their departmental heads in this province, is remarkable and is a testimony to a great amount of good will on both sides, specially when it is remembered that Ministers are Indians responsible to an Indian Legislature and, in most cases, lacking in previous administrative experience and that heads of departments in all cases are experienced permanent officials and in many cases Europeans." Something has been said in regard to a tendency on the part of Ministers to yield to the pressure of members of the Legislature and thereby embarrass the heads of departments. It must be said that this tendency has not been very prominent, and has depended very largely on the personalities of the individuals concerned. A strong Minister has been able to resist pressure more than a weak one, and likewise a strong departmental head has been less troubled than a weak one. In regard to the relations between Ministers and Secretaries the United Provinces Government has acknowledged that these have been good, and that only such honest differences of opinion have arisen as were inevitable, and they have generally been dealt with in a spirit of frankness and good will on both sides. The power which Secretaries possess of taking up to the Governor direct cases in which they differ in opinion from the Ministers, has, in some cases, proved irksome to the Ministers. The Reforms Inquiry Committee proposed that the rules should provide that the Secretary should inform his Minister of every case in which he differs in opinion from him and of all other important cases which he proposes to refer to the Governor. The Governor in Council of this province did not agree with the proposal which he regarded as unnecessary. In spite, however, of these occasions for friction, which were the result largely of an imperfect and new Constitution, the United Provinces Government has readily acknowledged, " the Ministers and Secretaries have both worked amicably and well and that such difficulties, as have arisen, are only the necessary concomitants of a new order of things."

FINANCE DEPARTMENT UNDER DYARCHY.

18. The working of the Finance Department illustrates some of the difficulties of dyarchy. The functions of the Finance Department are merely advisory and no administrative department, whether Reserved or Transferred, need accept its advice. If any department refuses to accept the advice, the Finance Department has no further power than to insist that its advice shall be considered by the Government. The administrative departments have, however, assumed that an objection by the Finance Department is final, and have thus conferred on the department a power of veto which was deliberately withheld

from it. At present the Finance Department belongs to the Reserved side of the Government and is in charge of the Finance Member. The Reforms Inquiry Committee recommended that the Finance Member should not hold charge of any large spending departments. The Government were unable to give effect to this recommendation as they thought that it would necessitate the creation of a new post which they regarded as an unjustifiable extravagance. The charge has been frequently made that the Finance Department has starved the Transferred departments, but it would appear that there is no real justification for such a charge, as although it is true that the Transferred departments do not get as much money as they really require, yet this is only due to the fact that no money is available either for the Reserved or for the Transferred departments. In connection with the difficulties of the Finance Department under dyarchy, it may be mentioned that the administration of the Excise Department by successive Ministers has resulted in a reduction of revenue amounting to more than half a crore of rupees; the effects of such a loss have not been confined to the department concerned or even only to the Transferred departments, but must recoil also on the Reserved departments. The Finance Department has no control over the matter, although it has affected the administration of the Reserved departments.

Some other Defects of Dyarchy.

19. Reference has already been made to the anomaly that Ministers have to administer Transferred subjects by employing officers over whom they do not have full control and whom they cannot themselves select. For instance, the posts of heads of certain departments on the Transferred side are reserved for officers belonging to the Indian Civil Service; the Commissionership of Excise and the Registrarship of Co-operative Societies are instances in point. The recruitment to the All-India Services in the Transferred departments has, however, been stopped, and in time the difficulties, which have arisen in the past, will not occur.

The restrictions on the powers of the Local Government to initiate legislation without obtaining the previous sanction of the Government of India, may sometimes cause difficulties with the Provincial Legislatures. The Local Government do not approve of the existing provision of the Government of India Act on this matter, and they would welcome any amendment which would free them from the need of constant reference for the sanction of higher authority.

Position of District Officers under the Reforms.

20. It has been stated in some quarters that district officers have found it difficult to discharge their duties satisfactorily under the Reformed Constitution, but there seems no real ground for this complaint. It is true that there is a tendency on the part

of Government, which has to justify its actions before a Legislature, not to leave entire discretion in the hands of their local officers. This may have resulted in some curtailment of the exercise of the powers vested in the district officer, but no concrete cases have been cited to show that the district officer has found himself hampered in the discharge of his burden of responsibility under the existing system of government. On the other hand, some district officers, at any rate, have found the assistance of members of the Council useful in dealing with controversial matters. The United Provinces Government is quite right in saying that " it is largely by the maintenance of close personal touch between the people and the officials in the districts that the work of administration is carried on with smoothness and efficiency." There is no doubt that people now do not look upon the district officer as the representative of an alien bureaucracy; they are more prepared to confide in him their joys and sorrows.

THE PROVINCIAL LEGISLATIVE COUNCIL.

Composition.

21. The United Provinces Legislative Council as constituted under the Government of India Act, 1919, consists of 123 members of whom 100 are elected, 21 nominated and two *ex officio* who are members of the Executive Council. Of the 21 nominated members, 16 are officials and five non-officials, the latter including one representative each of the Anglo-Indians, the Indian Christians and the Depressed Classes. The two remaining nominations are utilised by the Governor to redress communal inequality or to bring to the Council men of position and influence who would otherwise not care to seek election. The Governor also has power to nominate two expert members for the purpose of any particular legislation. Of the elected members 90 come from general constituencies and 10 from special. The general constituencies are divided into 60 Non-Muhammadan, 29 Muhammadan and one European. They are further classified into rural and urban, the former returning 77 and the latter 12 members, the European constituency extending to the whole province. Election in the special constituencies is by mixed electorates. Of the 10 representatives returned by the special constituencies four come from the British Indian Association of the Taluqdars of Oudh, and two from the Agra Province Zamindars, making a total of six representatives of the landlords. The Upper India Chamber of Commerce and the United Provinces Chamber of Commerce return two members and one member respectively. The University of Allahabad has one representative.

The Franchise.

22. The franchise qualifications for the general constituencies are based on (1) community, (2) residence, and (3) (*a*) owner-

ship of a building or agricultural land, (*b*) tenancy of a building or land, (*c*) assessment to Municipal or income-tax, or (*d*) receipt of a military pension. The community qualifications prescribe that an elector must belong to the community for which the constituency is meant; according to this qualification the Anglo-Indians, the Indian Christians, the Sikhs, the Parsis, the Buddhists and the Hindus all belong to the Non-Muhammadan constituency. The qualifications for the urban constituencies are :—

(*a*) ownership or tenancy of a house or building of a minimum annual rental value of Rs.36, or

(*b*) where there is no house-tax, assessment to a Municipal tax on a minimum annual income of Rs.200, or

(*c*) possession within the constituency of any of the rural qualifications based on the holding of land, or

(*d*) receipt of a military pension or being a retired or discharged military officer, non-commissioned officer or soldier of His Majesty's regular forces, or

(*e*) assessment to income tax.

In the case of qualifications (*a*), (*b*) and (*c*) an elector must be resident within the constituency or within two miles of its boundary and in the case of (*d*) and (*e*) he must be resident within the constituency itself.

The qualifications for the rural constituencies consist of residence in the constituency and—

(*a*) in an urban area falling in the constituency, ownership or occupancy of a house or building of a minimum annual rental value of Rs.36 or assessment to a Municipal tax on a minimum annual income of Rs.200, or

(*b*) ownership of a land in the constituency for which annual land revenue of Rs.25 or more is payable, or

(*c*) tenancy of land as permanent tenure-holder or fixed-rate tenant or (in the case of Oudh) as an under-proprietor or an occupancy tenant, for which an annual rent of Rs.25 is payable, or

(*d*) tenancy as an ordinary tenant-in-chief of land for which an annual rent of Rs.50 is payable, or

(*e*) assessment to income-tax, or

(*f*) receipt of a military pension or being a retired or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces.

For the European constituency an elector must have a place of residence in the United Provinces and possess any of the qualifications prescribed for a general rule or urban constituency.

The franchise in the Agra Province landholders' constituencies consists of residence in the constituency and payment of Rs.5,000 or more as land revenue. The franchises in the British Indian Association and the Chambers of Commerce are limited to the membership of these bodies. The franchise in the University

constituency is confined to members of the court, the executive council and the academic council, the doctors, masters and graduates of seven years' standing.

Besides, an elector in any constituency must not have certain general disqualifications, namely—

(*a*) not being a British subject,

(*b*) having been adjudged by a competent court to be of an unsound mind,

(*c*) being under 21 years of age,

(*d*) having been convicted for certain election offences.

The sex disqualification was removed by a resolution of the local Legislative Council passed on February 1, 1923.

Working of the Franchise.

23. The first electoral roll of the general constituencies prepared under the Government rules contained 1,347,922 electors who were all males. The one prepared in 1923 contained 1,509,127 electors of whom 49,076 were females, the sex disqualification having been removed in the meantime. The last electoral roll prepared in 1926 had on it 1,598,996 electors of whom 51,056 were females. The number of voters in urban constituencies rose from 77,115 in 1920 to 116,886 in 1923 and to 151,445 in 1926. The increase in the rural constituencies has been from 1,264,101 in 1920 to 1,383,315 in 1923 and 1,437,469 in 1926. This gradual increase in the electorate undoubtedly indicates an increase of desire in the people to get themselves registered. Other factors also have contributed to it especially in the urban constituencies, where the house rents have risen with the general rise in prices. The extension of the franchise to women and the increasing care with which the rolls have been prepared account for a certain proportion of the increase, but the proportionately higher increase in the urban constituencies coupled with the fact that there have been a larger number of claims for registration in urban constituencies than in the rural ones shows, in the words of the United Provinces Government, that " in the towns there is more interest in politics and the value of the franchise has clearly been appreciated to a greater degree than in the villages." That the people have evinced greater interest is also shown by the very marked increase in the number of claims and objections. In 1923, 3,538 claims were made : in 1926 their number increased to 6,350, an increase of almost 75 per cent. The number of objections increased from 1,613 in 1923 to 1,702 in 1926. Here also we find that more than half the claims and nearly half the objections were made in urban constituencies.

It will be useful to compare the size of the present electorate with the population of the province. The total electorate of 1.598,996 is 3.5 per cent. of the total population of the province. The male electorate of 1,547,938 is 12 per cent. of the population of male adults of 20 years and over. The female electorate

of 51,056 is 0.4 per cent. of the population of the female adults of 20 years and over. The proportion of electorate to population in the rural constituencies is much smaller than that in the urban constituencies, being approximately 3 per cent. in the former and approximately 10 per cent. in the latter. These figures show that a very small percentage of the population is enfranchised under the existing rules and that the urban classes are enfranchised to an extent more than three times that of the rural classes. These figures will be very useful when we come to discuss our proposals with regard to Franchise.

The Exercise of the Vote.

24. An increasing proportion of electors has exercised the franchise at each successive election. Of the male electorate 33 per cent. went to the polls in 1920, 43.7 per cent. in 1923 and 51.6 per cent. in 1926. The proportion of females who exercised the vote rose from 2.8 per cent. in 1923 to 10 per cent. in 1926. We think it useful to give the following statement taken from the United Provinces Government Memorandum to show the proportion of electors who voted in the different classes of constituencies in 1926 :—

	Per Cent.
Non-Muhammadan urban	... 45.5
Non-Muhammadan rural	... 49.3
Muhammadan urban	... 42.2
Muhammadan rural	... 64.5
Agra landholders	... 58.0
Taluqdars of Oudh	... 53.3
Chambers of Commerce	uncontested.
Allahabad University	... 71.7
Europeans	... 14.2

In this election several constituencies showed a poll of over 70 per cent. of the electorate and two of over 80 per cent. The European poll was only 14 per cent. This shows the lack of interest of the Europeans in the present Legislatures. The women also showed an increased interest. The United Provinces Government seem to think that the increased polling in 1926 was appreciably due to prominence of communal issues and to the greater activity of politicians rather than to any genuine growth of interest in the electors. It is difficult to judge precisely as to what causes brought about this increase in polling other than an increase of interest in the electors. We are disinclined to think that communal issues could have had much to do with the increase because the constituencies being separate there could be no real reason for one community competing with the other at the polls. It is quite possible, however, that the activity of politicians may have created increased interest by giving a stimulus to the awakening which was unmistakably coming about in the electors themselves.

CONSTITUENCIES.

25. With a restricted franchise such as described above and the limited number of seats open to general election, the size of the constituencies has inevitably been large. For the constitution of the general rural constituencies the district has, as far as possible, been adopted as the territorial unit with the result that as many as 44 out of the 52 of the Non-Muhammadan and 11 out of the 25 of the Muhammadan rural constituencies comprise a single district each. The remaining constituencies have been formed by grouping two or more districts. The area and population of the various constituencies vary very greatly. The average area of Non-Muhammadan constituencies in the plains is 1,895 square miles, the lower limit being 910 and the upper 4,368. In the hills the size is much larger, varying from 2,721 square miles to 5,612 square miles. The Muhammadan rural constituencies are of course much bigger, the average area being 4,262 square miles. Similarly marked are the variations in the population. The average for the Non-Muhammadan rural constituencies is 716,842 inhabitants and for the Muhammadan rural constituencies 247,284. The averages for the urban constituencies are 117,330 and 133,466 respectively. The number of electors in the constituencies shows corresponding variations. The average number of electors in the urban constituencies is 12,408 in the Non-Muhammadan and 12,914 in the Muhammadan; whereas in the rural constituencies the average is 24,230 in the case of Non-Muhammadan and only 7,100 in the case of Muhammadan. The huge disparity in the average number of electors per constituency in the rural and the urban areas is inevitable; for, in the words of the United Provinces Government " if the rural areas were given the same representation as the urban areas on a strict population basis, they would be represented by 322 instead of 77 members." This inadequacy of representation as compared to their populations is, however, offset by the fact that the rural interests predominate in the composition of the Legislative Council, for as many as 77 general constituencies are rural as against 12 urban. Coming to the special constituencies we find that the two Agra landowners' constituencies have 380 and 336 electors respectively whereas the Oudh constituency, which returns four members, has 373 electors. The Upper India Chamber of Commerce has 67 electors, the United Provinces Chamber of Commerce 103 and the Allahabad University constituency 4,101.

PARTY ORGANISATION.

26. At the time of the 1920 elections there were no parties in existence and candidates were mostly elected on personal grounds. By the time of the 1923 elections the Swaraj Party had come into being and by means of its organisation achieved

considerable success in those elections. The Liberals also claimed to possess an electoral organisation at that time but this organisation does not appear to have resulted in the success of a great many candidates: they lost ground very markedly. By reason of their personal influence with the rural electors, landholders again captured a majority of seats. In the 1926 elections communal feeling is reported to have played a large part, but again the Swaraj Party by reason of effective organisation achieved a substantial measure of success though less than before. The landholders lost some ground in the western districts but they were again returned in very great majority. The classes most largely represented amongst candidates at all elections have been landholders and lawyers, and the candidates are stated to have, on the whole, been representatives of the middle class population. Titled landholders have begun to lose their initial shyness of political life and the present Council contains nearly 20 members who belong to titled families. An analysis of the elected members of the Council since 1921 gives the following results :—

	1921 to 1923.	1924 to 1926.	1927 to 1929.
Landholders	46	51	45
Lawyers	44	31	34
Others	10	18	21

Election Arrangements and other Matters relating to Elections.

27. The election arrangements have been found to be generally suitable and have worked smoothly at each successive election. The United Provinces Government thinks that there would probably be considerable difficulty in some districts in making the necessary arrangements if the franchise were materially widened. Experience shows that one polling station can deal with an electoral roll of 2,000 to 2,500 electors in one day. But that is by no means an insurmountable difficulty. In case of an increase in the franchise it may be possible to have elections spread over more than one day which course would, perhaps, be welcomed both by the candidates and by the staff at polling stations. There is no doubt that canvassing in the rural constituencies is in many cases confined to obtaining support of influential persons, but there is a distinct change coming on in so far that a rural elector is not now so much amenable to superior influence as he used to be. Candidates have, therefore, to establish relations with the electors in addition to obtaining support of influential persons. That corrupt practices are indulged in cannot be denied, but there is no evidence to show their exact extent although as stated by the United Provinces Government most district officers have reported that there is no general complaint of the existence of such practices.

The figures of amounts spent by candidates on the different elections are interesting :—

1920	...	...	...	...	...	...	2.91 lakhs.
1923	...	...	...	...	...	...	3.95 „
1926	...	...	...	...	...	...	5.65 „

The steady increase in these figures shows unmistakably that candidates have been making more elaborate arrangements for canvassing and for bringing voters to the polls at successive elections. Members have shown interest in their constituencies by asking questions and moving resolutions. In some cases local matters of even comparatively minor importance have been very well ventilated in the Council. It is also by no means unusual for the members to keep in touch with their principal supporters and to address political meetings at headquarter towns, but few members have been known to tour in the villages. Real interest in the welfare of the electors, if such interest can be judged by going about among the electors, is said to be confined to a very select band of members who regard themselves in a real sense as the representatives of their constituency and make a real effort to keep in touch with them. The unduly large size of the present rural constituencies has undoubtedly a great deal to do with the inability of members to maintain personal touch with their electors. This is proved by the fact that the members representing urban constituencies are known to have been in touch with their electors to a far greater degree than those who come from rural constituencies.

The following statement shows the number of days on which the Council sat in the years 1921 to 1927 and also the number of days which were reserved for Government business as compared with those which were allotted for private members' business :—

		Total sittings.	Government days.	Private members' business.
1921	...	65	38	28
1922	...	53	27	26
1923	...	37	23	14
1924	...	41	22	19
1925	...	46	24	22
1926	...	53	43	10
1927	...	45	27	20

WORKING OF SOME OF THE RESERVED DEPARTMENTS.

(*a*) The Land Revenue Department.

28. The Land Revenue Department affords an interesting illustration of the manner in which a Reserved department has been treated by the Legislature. As is well known, land revenue administration touches the people more closely than any

other activity of Government, and it is, therefore, only natural that it should have occupied a very considerable amount of the time of the Legislative Council. Two pieces of legislation of far-reaching importance, namely, the Oudh Rent Act and the Agra Tenancy Act were passed by the Reformed Legislature. Both these Bills were of a very contentious nature, but on the whole the attitude of the Legislature was eminently reasonable and satisfactory. The Agra Tenancy Act, which was introduced in the Council in 1926, was designed to remove the main disabilities of the landholders on the one side and the tenants on the other, but landholders who held a majority in the Legislature did not look with favour on certain provisions of the Bill. They agreed to the introduction of the Bill and to its reference to a Select Committee. They, however, desired a number of amendments which did not meet with the approval of Government, whereupon they turned to the Swarajists, the avowed supporters of the tenantry, and made a pact with them in order to make a common cause against the Government. The result of this pact was that the Legislative Council amended the Bill in regard to six provisions which the Government found it impossible to accept. His Excellency the Governor sent the Bill to the Council with the recommendation that the original provisions should be restored. The Government accepted two important amendments in favour of the tenants which removed the main reason for the Swarajists' compact with the landlords, whereupon that party abandoned their former allies and by voting with the Government restored the original provisions as suggested by the Governor. The Bill was thus passed in a form substantially satisfactory to the Government. Besides these two enactments, to which reference has been made, the Legislative Council has passed 12 Acts dealing with Rent or Revenue matters. With the exception of the first Settlement Bill which had to be dropped, all this legislation was passed without difficulty. Another Settlement Bill was, however, introduced at a later date which has now been passed by the Council. Thirty resolutions on matters controlled by the Revenue Department have been before the Council. Eighteen of these were adopted and 12 withdrawn on assurances given by Government. An examination of the subject-matter of these resolutions will show that none of these was such as can be called unreasonable. It may, therefore, be safely concluded that the Council has not indulged in irresponsibility in dealing with the Revenue Department, although being a Reserved department vitally affecting both Government and the people, it could have been used by the Council as a powerful lever to make the position of Government difficult.

(*b*) The Irrigation Department.

29. The attitude of the Legislature towards the Irrigation Department has been very favourable. There is a general

recognition of the value of the work of this department. The Government has rightly remarked that although criticism has not been lacking, yet it has, for the most part, been fair and reasonable, and also in some cases, constructive. The Irrigation budget was passed year after year without much criticism. Few reductions in the demands were made and only one of these was carried against the Government; that one was in 1926 and was a censure on Government for refusing to proceed with the Irrigation Rates Bill. In the year 1927 the Council appeared to be much more critical with the objects of this department, but the reasons for this change of attitude were probably that it was the first session of a new Council, that owing to more money being available, the amounts allowed to the departments in 1926-27 showed a considerable increase over those of the preceding lean years since 1921, and that the Council was still displeased with Government for refusing to proceed with the Irrigation Rates Bill. Cuts to the amount of 1.02 lakhs were carried against the Government, but none of this money was restored.

(*c*) The Forest Department.

30. The Legislative Council cannot be said to have been obstructive in respect of the work of the Forest Department although it has been said that the Legislature has shown comparatively little interest in the main aspects of Forest administration and the scientific activities of the department. It has been inclined to support the claim of villagers to benefit from products which the State controls; e.g., grazing concessions, concessions to the village right-holder, concessions to the contractor who buys timber from the forest, have readily found support. There has been distinct improvement in regard to criticism of the department by the Council. The attitude of the Council towards the utilisation activities of the department has saved the taxpayer recurrent losses which ran into a huge sum. The Government started certain factories to work forest products which incurred very heavy losses and the Legislative Council by its unsparing criticism and insistent demand for the immediate abandonment of the ventures brought into prominence the futility of Government trying to run a business concern. In the end the factories were disposed of and the Government saved from losses which had to be provided for in every budget. The Government admits that the Legislative Council had undoubtedly every justification for criticism and for demanding a curtailment of losses at a time when money could ill be spared, and further, that on the whole the attitude of the Legislature towards the department's budget, if somewhat unsympathetic, has never been definitely hostile or obstructive. The Chief Conservator's main complaint is that " the Reforms have resulted in a most serious and almost overwhelming increase in office work and worry which cripples the clerical staff and makes it difficult, if not impossible, for officers to avoid a

tendency to devote themselves to comply with rules and avoiding objections rather than to the interests of the forests." This increase of work and worry the Chief Conservator attributes to " the tyranny of the Audit Department " and doubts whether Government " derives any real advantage from this elaborate system of check and inspection." He regards the interference by Audit as being so far a most dangerous concrete result of the Reforms.

(*d*) The Police Department.

31. The Council is reported to have been unsparing in its criticism of the Police Department, but never to have so far failed to vote the necessary supply for it. It is not to be wondered at that the Legislative Council has devoted much time to the discussion of Police affairs. In some years it has reduced the Government demands, but never very seriously, and it has passed the last four budgets with practically no reductions worth mentioning other than those accepted by Government. The Government has admitted that the Council has had sufficient sense of responsibility not to use its powers to cripple the Police administration. The Governor has only twice had to use his power of restoration, and in neither case was the amount a large one. The 1927 budget was discussed at greater length than any of its predecessors. The Council devoted two whole days to its discussion, a good deal of which took the form of an attack on the Inspector-General for remarks in his Annual Report dealing with the criticism of politicians on Police administration. The Council regarded these remarks as a breach of the privilege of the House and even the Government's supporters felt so strongly on the subject that a difficult situation was averted only by the repudiation of the Inspector-General of any intention on his part of reflecting on the conduct of any member of the Council. One of the cuts carried by the Council took the form of a censure on Government for failing to reduce the number of Assistant and Deputy Superintendents as recommended by an Economy Committee which had sat the previous year. It may be argued that the Council had justification for carrying such a cut. As a further instance of the reasonable attitude of the Council towards the demands of the Police Department, mention may be made of a supplementary demand for 1½ lakhs for an increase in the strength of the armed police which had evoked considerable opposition. The demand was carried without serious reduction in spite of determined opposition by the Nationalist and Swaraj Parties. The administration of the Police Department has been under the Home Member, both incumbents of which office have been Indians. Both these gentlemen have had no difficulty with the Council which has shown every consideration to them. In fact, the present Home Member is, perhaps, the most popular and respected member of Government with whom the Council had to deal since the inauguration of the Reforms. He has acknowledged that the

Council has never created difficulties in the successful administration of the subjects entrusted to his charge, and it is well known that any measures which he may like to promote would go through without serious opposition.

WORKING OF SOME OF THE TRANSFERRED DEPARTMENTS.

(a) The Agricultural Department.

32. In the year when the department met the Reformed Council for the first time, it had to put up with a good deal of criticism and had to be content with a budget grant 8 lakhs short of what was asked for. The department had not gained the confidence of the Council which had still to be satisfied that the expansion of the department was going to be of real benefit to the province. The department did not take long to win the support and good will of the Council because, as admitted by the United Provinces Government, in the very next year, the hostile criticism of 1921 gave place to a real understanding. Since then the Council has year by year passed the department's demand without reducing it by a single rupee—a unique record. Members of all sections of the Council are now united in the view that expenditure on agriculture should be increased. The interest of the Council has reacted on the work of the department which is now said to be in closer touch with the needs of the province than at any earlier period. The following striking tribute has been paid by the United Provinces Government to the work of the department since the introduction of the Reforms: "There is cause for satisfaction with the record of the department since 1921. It has adapted itself to the Reformed Constitution and has made full use of the greater opportunities for development which that Constitution has afforded to it. There has been development in every direction and much work has been done; the full results of which will only be revealed in the future. But the province is a large one and the vast majority of its people are dependent on the land for their livelihood, so that it will take time before the people as a whole begin to enjoy the full benefits which the work of the department will ultimately bring to them." Three Ministers, Mr. C. Y. Chintamani, Nawab Sir Muhammad Ahmad Sa'id Khan and Thakur Rajendra Singh, have administered the affairs of the department. The United Provinces Government speaks of their work in the following terms: "Mr. Chintamani was not himself a landholder but took a keen interest in the department and was responsible for the initiation of the policy which has led to the rapid development of the department's work, and his example was followed by his two successors, who both had a hereditary interest in the land and its problems." The department has been fortunate in having Mr. Clarke as its head since 1921. He is stated to have completely won the confidence of

successive Legislative Councils and to have kept in close touch with all the three Ministers with each of whom—in spite of their conflicting politics—his relations have been excellent.

(*b*) The Excise Department.

33. A reference to the United Provinces Government's Memorandum will show that the period since 1921 has been one of very considerable activity in the Excise department. The principal administrative reforms introduced have been—

(1) enhancement of duties;

(2) extension of the contract supply system to hemp drugs;

(3) substitution of the surcharge system of licence fees for the auction system;

(4) extension of the sealed bottle system of vend of country spirit;

(5) creation of licensing boards and a provincial advisory board;

(6) extension of the tree-tax system of *tari*;

(7) curtailment of the hours of sale; and

(8) reduction of the number of shops.

The department has been under three successive Ministers, each of whom has introduced far-reaching changes. The department has been the subject of much criticism by the Legislative Council whose feeling has been in favour of a policy in advance of that actually adopted by Government. It has been recognised that on the whole the Council has dealt with the problems of the department in a practical manner, and has realised the need for ordered progress.

In regard to the relations which have existed between the Ministers and the administrative staff of the department, the Government has the following to say : " In no other department has Ministerial policy involved so many and so extensive changes in the previously existing system, but in no other department have the staff co-operated more loyally with the Minister. There has been little interference by any Minister in those details of administration which should be left to the head of the department and there have been no difficulties in the matter of appointments." This department enjoys a peculiar position as it is dependent on Reserved departments for the actual carrying out of its work. The Police and the District Officers are the executives which carry out the department's policy. In spite of the very complicated nature of the relations between the Excise and the Reserved departments, instances of conflict have not been many, although it must be conceded that the existing position of the department is extremely anomalous.

(*c*) The Industries Department.

34. The United Provinces Government admits that the Reforms period has been one of considerable activity in the

Department of Industries; it goes further and says that it is unquestionable that this activity was stimulated by the Reformed system of Government. Important developments in the department, such as the institution of the Stores Purchase Department, the industrial survey and the opening of new schools, owe their inception to the Ministers and the Council. During the Reforms period economies have been effected in the department, and new developments have been initiated. The Government have recently reviewed the working of the Stores Purchase Department with the following observations: " Government are confident that this department has a future of much usefulness before it. Its value in the stimulation of industries is obvious. Even from a narrow commercial point of view it should pay for its running several times over from the savings effected." All this is to the credit of those who have worked the Reformed Constitution.

(*d*) THE EDUCATION DEPARTMENT.

35. In no other department has the Council taken more interest than in the Education Department. There is no doubt that since the Reforms " education has been more in the public eye than previously," and that " the Council has reinforced the claims of the department on public funds." We refrain at this stage from discussing the activities of this department at any length as we have heard no evidence in regard to it. We would, however, like to be given an opportunity to submit a supplementary Note on the subject of Growth of Education after we have been favoured with the Hartog Committee's Report.

(*e*) THE MEDICAL DEPARTMENT.

36. The Medical Department has had rather a chequered career during the period of the Reforms. There has been conflict of public and scientific interest on the question of the encouragement of the indigenous systems of medicine. There has also been conflict of service interests in the matter of appointments and the conflict of racial interests in the matter of medical attendance. There has been deterioration of medical administration under District Boards. All these factors have combined to make the position of the Minister in charge of the medical affairs one of considerable difficulty. In spite of all this, the relations between successive Ministers and Inspectors-General, of whom there have been five during the Reforms, have on the whole been quite friendly, though their points of view have in many matters been diametrically opposed.

(*f*) THE PUBLIC HEALTH DEPARTMENT.

37. The following paragraph from the Government Memorandum will bear reproduction, as it sums up the position of the Public Health Department under the Reformed Constitution :—

" The Ministers in charge of the affairs of the department have been Pandit Jagat Narain, Raja Parmanand, and Rai

Rajeshwar Bali. The department has been fortunate in having had as its Director since 1919 Lieut.-Colonel C. L. Dunn, who has shown much initiative and energy in developing public health administration in the province and laying sound foundations for future progress. He has from the first realised the need for keeping in close touch with the members of the Legislative Council as well as the Minister, with whom his relations have throughout been satisfactory. Rai Rajeshwar Bali pursued a policy of cautious advance and invariably refused to move till himself convinced, but once convinced he used all his influence with the Legislative Council to obtain the adoption of his policy. He took great interest in the department's work and himself initiated schemes for the improvement of pilgrim centres and village sanitation, and also assumed responsibility for rejecting or modifying other schemes which he considered impracticable."

The United Provinces Government has pointed out the necessity for co-ordination in the work of this department between the different provinces. It has raised the issue whether for the purposes of public health India should not be treated as one country instead of as a collection of provinces. It is added that in the existing conditions the good work of a province with an advanced system of public health administration might be rendered nugatory owing to its proximity to a province with a less advanced system. We consider that the new Constitution should provide some means for co-ordinating the activities of different provinces in this as well as, perhaps, in certain other departments.

THE LOCAL SELF-GOVERNING BODIES.

Reason for Inquiry.

38. One of the principal duties of the Indian Statutory Commission as enjoined by section 84A of the Government of India Act, 1919, is to inquiry into the development of self-governing bodies which mainly are the Municipalities, the District Boards and the Village Panchayats. The Municipalities and the District Boards are, next to the Legislative Council, the most important representative institutions in these provinces. The authors of the Montford Report emphasised the need of the introduction of complete popular control in the local self-governing bodies : they considered that " responsible institutions will not be stably rooted until they become broad-based." In these provinces the principle had already been recognised to some extent before it was enunciated at those illustrious hands.

The Municipalities.

39. The United Provinces Municipalities Act of 1916 which has continued in operation with a few amendments gave non-official

chairmen to almost all the Municipalities: only five out of the 85 Boards have nominated official chairmen. It gave very large elected majorities: in most Boards Government's power of nomination is restricted to two members. It gave them further freedom in regard to taxation and budget, and enlarged control over the establishment. Under the Act only two classes—Muhammadans and Non-Muhammadans—are given separate representation on religious grounds and provision is made for weighted representation to the Moslems according to an elaborate scale varying with the population in each area. It laid down a rather restricted franchise, and a private Bill (supported by Government) which became law in 1922 reduced it generally to the level of the Council franchise. The qualifications are chiefly based on ownership or tenancy of a house or a building of a certain annual rental value and a Municipal tax on income, the amounts of the rental value or the income assessed varying in the different Municipalities. "The present Municipal franchise is *mutatis mutandis* similar to and in some respects lower than that for the District Boards. Though in some towns it is as restricted as that for the Legislative Council, in a majority of towns it is somewhat more liberal." The chief functions of the Boards are conservancy, water-supply, street-lighting, provision of medical relief by establishing or supporting hospitals and dispensaries, and maintenance of primary schools. Every Board has its own staff and may keep an Executive Officer: in the case of the 10 larger Municipalities the Government can even require one to be appointed. An Executive Officer is appointed by the Board subject to the Local Government's approval; he may be punished or dismissed by the Board, but he has a right of appeal to the Government. The district officer and the Commissioner have some powers of interference in the administration of the Boards, the Education and Public Health Departments of the Government have certain powers of inspection, and the Local Government has certain restricted rights of general supervision and punishment by way of suspension or dissolution of the Boards. The real control of Government is exercised in the making of grants.

The District Boards.

40. The United Provinces District Boards Act of 1922 was the outcome of the labours of two committees appointed by the pre-Reformed Legislative Council in 1918 and 1919. The Government considered it desirable to defer legislation on the District Boards till the Reformed Government had come into being. An Act was, however, passed in 1920 providing for the establishment of panchayats in the villages possessing a very limited representative character. The District Boards Act of 1922 completely reorganised District Boards. Its main features were:—

(1) The complete disappearance of the official element including district officers;

(2) elected non-official chairmen;

(3) relaxation of Government control to a much larger extent than in the case of Municipalities;

(4) power to enhance the percentage of the local rate and to impose a tax on circumstances and property;

(5) electorates based on a wide franchise comprising (*a*) property qualification, and (*b*) educational qualification;

(6) restriction of nomination to only two non-official members, one of whom must ordinarily be selected from the Depressed and Backward classes;

(7) wide powers of control over staff and agents, and

(8) statutory obligation to set up tahsil committees.

The most important feature of the District Boards is that they are not merely advisory or legislative bodies, but have very large administrative powers. The Committee system introduced by the District Boards Act was a novel feature and a great many evils noticed in the District Board administration have been due to this mixing up of administrative and legislative functions. There are 48 District Boards in the province corresponding to the 48 districts, having under their jurisdiction no less than 94 per cent. of the total population of the province. The normal district in the Gangetic Plain has an area of about 1,600 square miles and a population of a million. But there are great variations: one district has a population of over three and another of nearly two millions. The Act makes provision for weighted separate representation of the Muhammadans varying with their population. The Boards have a large variety of functions, the most important of which are the provision and maintenance of communications, hospitals, dispensaries, poor houses and asylums. Vernacular education, famine preventive and relief works, and pounds. The sources of revenue are :—

(*a*) The local rate which is 5 per cent. of the annual value of the estates, the total yield for the province from this source in 1926-27 being about 37 per cent. of the total income;

(*b*) Government grants which in 1926-27 accounted for over 45 per cent. of the Boards' total income;

(*c*) tax on circumstance and property which has been introduced only in seven districts;

(*d*) other sources such as the fees from cattle pounds, ferries, schools and hospitals, medical contributions and fairs and exhibitions. The total yield from these other sources in 1925-26 amounted to about 18 per cent. of the total income.

Of the total expenditure in 1925-26, education consumed nearly 50 per cent., public works 25 per cent., and medical and public health nearly 13 per cent.

Working of the Municipalities.

41. The elections to the Municipal Boards have been very keenly contested at every successive election. For obvious reasons, it is in the towns far more than in the rural areas that the value of the vote and of representative government is appreciably recognised by the people. "The keen contest," says the United Provinces Government, "which in the larger Municipalities characterised every general election since the 1916 Act came into force, marked both the general elections since the inauguration of the Reforms." The contests in 1923 were, however, unusually keen and "a good deal of new blood was let in." The Boards have shown a capacity to make proper selection of chairmen, and in general communal considerations have not vitiated their choice. The views of the United Provinces Government in this matter are well worth quoting. "Most Boards have elected two vice-chairmen, some of these belonging to the chief minority community. A few Boards with a majority of Hindu members have elected non-Hindu chairmen. Recently a Muhammadan has been elected as Chairman of the Benares Municipality; Cawnpore had till recently, and Saharanpur still has, a Parsi chairman."

The Boards have come in for a certain amount of justified criticism at the hands of the United Provinces Government. We have not had the privilege of examining any non-official on their working, and we base our conclusions mostly on the Memorandum submitted by the Government. "The conduct of business in the meetings has on the whole not been businesslike." "While the Boards now show a more lively interest in the maintenance of a regular water-supply, their management has not, generally speaking, been sufficiently businesslike." "Not all Boards have adequately realised the importance of an efficient staff." "While the popularity of piped water-supply has been growing, modern systems of water-borne sewerage are almost non-existent." "By 1920 the complaint that they (the roads) had deteriorated, especially in the large towns, was general." "The Municipal Boards' handling of their educational system has in general been less efficient than the District Boards." "In the matter of collections, the Boards' record has not been very encouraging."

These constitute the more important of the adverse criticisms that the Government has to make. But in assessing their value we must consider the difficulties and circumstances in which the Boards have worked. The Boards were almost suddenly given a non-official character, and it does require some time for people untrained in the art of government to acquire habits of businesslike efficiency. Great difference has been due to what the Government call "personal equation," and it is admitted that "some Boards were, however, more businesslike and managed to finish their business in a much smaller number of

meetings. Industrial members—sometimes busy men of affairs —were often to blame for meetings proving abortive." If in regard to water-supply the Boards have not been so active as they might have been, it was largely a question of finances. The people do not fully realise that they must pay for water just as they pay for street-lighting. The point was brought out clearly by Sir Ivo Elliott (Secretary, Local Self-Government, United Provinces) in his reply to question No. 33 in the course of his examination before the Joint Free Conference. He said : " Several towns have, without the stimulus from Government themselves proposed the establishment of water-works. The difficulty has been a financial difficulty. It is more generally understood, I think, by the population that they should pay for electric light than that they should pay for water. There is no particular objection to paying a special charge for electric light supplied by the Municipality and consequently the electric light schemes finance themselves from the very beginning. The introduction of a water-works system is obstructed by the difficulty of having to impose a water-rate. That results in the fact that no proposal comes up to the Government from Municipal Boards for water-works which does not ask for a grant of, as a rule, half the capital cost of establishing the water-works. It is not always financially possible to make that grant, and consequently the actual progress in the development of water-works is slower than it is likely to be in the case of electric light works." The financial difficulties of the Municipalities have been very great indeed and have hampered every sphere of their activity. They have been left to their own resources, for " grants and contributions form almost a negligible fraction " of their revenues. Most Boards have, however, taken steps to impose fresh taxation. In the imposition of taxation, which is always a difficult matter for all representative bodies, the Boards have shown sufficient responsibility. In seven years the income raised by them has risen from 106 to 144 lakhs; and the increase is made up mostly of increased income from taxation which rose from 69.39 to 103.57 lakhs. The incidence of Municipal income rose from Rs.3-13-6 in 1919-20 to Rs.5-4-0 in 1926-27. " The pre-Reform policy of substantial grants from provincial revenues for the establishment of water-supply systems has been discarded," says the United Provinces Government. If drainage on modern lines is lagging behind, it is because the modern system of sewerage is an expensive one. Those Boards which can afford it, such as Cawnpore and Lucknow, have introduced it. The deterioration of roads has assumed a great importance, but here again finances have proved the great stumbling block. In the words of the United Provinces Government " no Board has any reserve capital of its own, and Government are not in a position to make all the loans asked for by them." And the rapid growth of heavy lorry traffic has imposed heavy and unexpected strain on Municipal roads. The Boards had limited

revenues at their disposal and " roads were starved for the sake of balancing the budget." The bigger Municipalities are, however, taking interest in roads; Lucknow and Cawnpore have already a number of asphalted roads. " In the matter of electric street-lighting," says the United Provinces Government, " these provinces have recently made rapid progress. Including six towns which adopted electric lighting since 1st January, 1921, there are at present 11, the lighting arrangements of which are satisfactory." In regard to medical relief, whereas certain Boards have shown reluctance to maintain or subsidise the hospitals that already existed—here, too, there is the plea of financial inadequacy—some of them have established dispensaries providing for medical relief on indigenous lines, which are decidedly cheaper and more congenial to the Indian temperament. Government thinks that of the popularity of such dispensaries " there is no doubt." The Boards have incurred increasing expenditure on conservancy. The expenditure on account of health officers and sanitary inspectors went up within the last seven years from 1.52 to 2.70 lakhs; but the real position is better than these figures indicate because the Boards no longer contribute towards the pay, etc., of the superior staff which has been provincialised. Much of the steady improvement of sanitary conditions has been due to the Public Health and Medical Departments, but it is admitted that " they (the Boards) have generally shown readiness to follow the departments' lead." This point touches the crux of the matter, for, it will be seen, the great difficulty under which the local bodies have been labouring is the absence of direction and advice from above. In regard to education the Boards have displayed great activity; 33 Boards have introduced compulsory primary education in the whole or selected portions of the area under their jurisdiction. Collections of taxes have not been as efficient as could be desired; but that was largely due to inefficient staff. That is another major difficulty against which the Boards have had to contend. The staff is too much under the control of the Boards and the system has all the evils of a service at the mercy of the Legislature. In the words of the United Provinces Government " local Boards' work could easily attain a higher standard if the selection and control of the staff be reduced to a proper system, the tenure of office be made reasonably secure, and the scope for intrigue and undue interference by members be minimised."

Working of the District Boards.

42. " Since the passing of the United Provinces District Boards Act of 1922 only two general elections have been held; both were very keenly contested." " The lack of vitality from which the old District Boards suffered was responsible for the poor and irregular attendance of non-official members. The first year after the Boards' reconstitution showed an all-round improvement.

Business was gone through with the smallest number of meetings; abortive meetings were fewer and the percentage of adjourned ones went down even more." With these remarks the United Provinces Government begin their account of the working of the District Boards. Criticism follows soon after. " Interference on the part of individual members with the postings and transfers of the staff led to administrative deterioration." " The Boards cannot as a whole be said to have fully exploited their own sources of income." " Little regard to economy has been paid by some Boards." " It must be confessed that the keeping of accounts and the observance of rules shared deterioration in common with many other aspects of the Boards' administration." " The plain fact is that the roads were everywhere starved. This was the legacy which the reconstituted Boards inherited from their predecessors." " The Boards continued to display little interest " in the development carried out by the Department of Public Health. The district officers who gave evidence before the Joint Free Conference also complained that there has been all-round deterioration.

But all this criticism loses much of its force when it is considered that the Boards have had a very brief existence, indeed. Real rural self-government in the province dates from 1923. And the task thrown on the Boards has been stupendous. The Boards were suddenly invested with the powers that the district officer with all his staff and prestige had performed. The point was made very clear during the examination of Sir Ivo Elliott. We quote below an extract from the verbatim report of his examination :

> *Question* 56.—Then I suppose as long as you had the *ex officio* chairman he was in a very strong administrative position because he had got his own subordinates in the district who were always available?
>
> *Answer.*—He had a large and widely-distributed revenue staff for the collection of the revenue who were available to inspect and to watch the execution of work that was nominally done for District Boards.
>
> *Question* 57.—Then when the transfer takes place, of greater responsibility and to a non-official elected chairman, it seems to me offhand that the newly-constituted District Board has a very difficult task thrown on it, because it would appear to lose the services to the full extent of this well-organised official administrative body?
>
> *Answer.*—That is the case, and the effect of that is seen in the difficulty which the District Boards find in getting their work done, and in making progress.

And this was not the only difficulty. In the case of District as well as of the Municipal Boards there has been a rather injudicious relaxation of control from the headquarters. The popular cry for " real and effective local self-government " has resulted

in the Government's keeping their hands off the affairs of the Boards as far as possible. Local self-government and local responsibility are by no means inconsistent with effective survey and the occasional control or stimulus of the central authority. Not only has there been lack of control, but there has not been any attempt to advise them. The policy has been to let them learn by their difficulties; it may have some justification, but it has rendered the period of experiment least suited to an inquiry by the Statutory Commission. The members of the Commission themselves showed their appreciation of the point in the examination of Sir Ivo Elliott. Major Attlee was pleased to suggest that the arrangements for central control had been rather chaotic, that there was no general advice and direction on the technique of Local Government at all. To these difficulties may be added the legacy of financial embarrassment that the Boards inherited from their predecessors and a feeling of communalism that was only the repercussion of the unfortunate tension prevailing outside.

Conclusion.

43. In the end we fully endorse the conclusion that the United Provinces Government have arrived at with regard to the accomplishments of the District Boards; in our opinion the same may, with slight changes, be said about the working of the Municipal Boards :—

> "The Boards have had to contend against great difficulties, inexperience, lack of a trained executive, wide areas, weakness of public opinion, the defective nature of the legislation under which they have been working, and lastly, and above all, the bitterness of communal feeling. In spite of these difficulties, this Government were able, in reporting in 1927 on the working of the Reforms, to say that the work of the Boards had on the whole been satisfactory, though still leaving much to be desired."

PART II.

GENERAL OBSERVATIONS ON FUTURE ADVANCE.

The Case for Full Provincial Autonomy.

44. We have so far described the working of the Reforms since their inauguration, and we trust we have adduced sufficient facts and data to enable us to conclude that this province has made the most of the Reforms and has established its claim to a further substantial instalment of them. The Legislature has shown increased responsibility, there is a marked awakening in the electorate, and the Transferred Departments have under successive Ministers made remarkable progress, despite insuperable difficulties of finance and extraordinary political conditions which have prevailed in the country during the last nine years.

We venture to think that for reasonableness and a real desire to work the Reforms, this province has shown itself second to none in India. The conclusion arrived at by the United Provinces Government is that " whatever has been the experience of other provinces it can be held that dyarchy has been worked in this province without an undue amount of friction and with a maintenance of a reasonable standard of efficiency in the administration." If, therefore, the granting of further Reforms is dependent on how this province has acquitted itself during the experimental period of the last nine years, it would appear to have a claim at least as good as any other province in India and a good deal better than some. We are aware that in more than one province the grant of full provincial autonomy—we shall define this term later on—is seriously under consideration, and we are clearly of opinion that this extension of popular government is fully due in this province.

Unanimous Opinion against Dyarchy.

45. In the first part of this report, we have freely used the words of the United Provinces Government to show that dyarchy is unworkable, cumbersome and illogical. This province has made the best of this awkward system for nine years, and there seems no reason why it should be saddled with it any longer when it has shown its capacity for fuller responsibility. Taking a most unbiased and detached view of the whole situation and after giving full consideration to the claims and difficulties of various castes, creeds and communities, we have evolved our proposals which aim at establishing full provincial autonomy with immediate effect. We have provided safeguards against possibilities of breakdown in the administration and also against any chances of unfair treatment of one community by another. Our Committee is thoroughly representative of the different communities in the province whose claims deserve the most careful consideration of those who are entrusted with the task of drawing up the future Constitution. That we have reached virtual unanimity is proof positive of the fact that there has been a spirit of give and take in all our deliberations, and our decisions are the result of a compromise between the conflicting claims of Hindus, Musalmans, Depressed Classes, Anglo-Indians and Christians. All these rival communities are united in their demand for a system of provincial autonomy where there will be no reservation of subjects and where real responsibility will rest with the people. All the different communities share common sentiment and historic associations, and in spite of communal dissensions which have unfortunately disturbed the happiness of our household, we think we are a body of people united by a corporate sentiment of definite intensity, intimacy and dignity, and there is no doubt that we are related to a definite home country. It cannot, we are confident, be argued against

us that there is an absence of the feeling of nationality in us. We have got all the requisites of national unity, and we are not so short-sighted as not to know that internal and communal dissentions can only result in thwarting the progress of the country as a whole. We understand the value of unity: we know full well " united we stand, divided we fall."

Interdependence of our Proposals.

46. In this connection we wish to make it clear that we regard our main proposals as vitally interdependent. As we have said above, they are the result of compromise between the rival and conflicting claims of the various interests that we severally represent; and it is for this reason that we would warn against our recommendations being considered piecemeal.

Meaning of Provincial Autonomy.

47. Before we proceed further, we must understand the meaning of the term " autonomy " which has been freely, though somewhat loosely, used in connection with proposals for advance in provincial governments. Autonomy has been defined " in general, freedom from external restraint, self-government." Another definition of it puts it as a " polity in which the citizens of any State manage their own Government." It is obvious that the word " autonomy " cannot be used in its absolute sense in relation to the provinces of India. In any system of provincial autonomy, equilibrium has to be established between the central power and local liberty. This brings us at once to the question of fitting the provinces into a system of federation where without predicting an equality of interest between the two parts of the constitutional equation, it is necessary to ensure a state of equipoise or contentment which may guarantee the whole system against violent disturbance from within. There is no doubt that the steps we are called upon to take in the solution of the Indian constitutional problem, will bring us face to face with some of those very questions which the makers of federal Constitutions in Germany, in Switzerland, in the British Dominions and in the United States of America, had to answer. So far as India is concerned, we are fortunate in being able to approach our task with a Central Government already firmly established, which we regard as a piece of good fortune because we have the important nucleus around which to build our Constitution. The present situation requires rather the liberation of the provinces from central control than the protection of the central authority from provincial encroachments. Whatever meaning may be given to the term provincial autonomy, it is idle to expect that the provinces will be entirely free of external control by the Government of India. It is obvious that there can be no provincial autonomy without free or self-governing institutions. It is for this reason that in the

fifth paragraph of the Preamble to the Government of India Act, the following words occur: "and whereas concurrently with the gradual development of self-governing institutions in the provinces of India it is expedient to give to these provinces in provincial matters the largest measure of independence of the Government of India, which is compatible with the due discharge by the latter of its own responsibilities." The important implication of the above Preamble is that the release of the provinces from the control of the Government of India is to proceed concurrently with the development of self-governing institutions in the provinces. Federal Constitutions vary in character and display in their variety the results of the strength between the centripetal and the centrifugal forces. The United States of America and the Australian Commonwealth are examples of the centrifugal type of federations, Canada being illustrative of the centripetal type. In the United States of America, which is perhaps the oldest model of a federal Constitution, the component States were in existence long before the union took place. The Constitution in the United States explicitly assigns to the central authority only those powers and duties which must be deemed common to the whole nation, the residue of power being left in the hands of the States composing the Union. The Australian and Swiss Constitutions are of a similar character. In all these Constitutions the powers of the Central Government are limited and the balance of power vests in the component States. It is important to note that in all these countries strong and organised governments, independent of any central authority, were in existence in the component States before these latter decided to unite themselves into a federation. The case of Canada may be called the constitutional antithesis of that of the countries just described. In all those countries the Central Government possesses only such powers as have been expressly assigned to it—everything else being left to the States—but the reverse is the case with Canada. The Constitution of Canada expressly provides that all residuary powers vest in the Canadian Parliament and not in the provinces. It is apparent that the future Constitution of India is going to partake of a similar character. Unlike the United States, where each State had original and inherent powers which belonged to it before it entered the Union, and where consequently each State is supposed to possess *prima facie* unlimited powers unless any can be shown to have been taken away by the federal Constitution, the type of Government which would come into being in India would be such as to give to the Central Government supreme authority over the provinces except where the Constitution assigns the subjects to them. Thus, any provincial autonomy which we may seek to establish, would be subject to such control by the Central Government as may be prescribed. We do not state that the line which is to divide matters of common concern to the whole federation from matters of local

concern will be absolutely clear. Nor do we imply that in the future Constitution of India the provinces will not have full liberty of action within the scope expressly assigned to them, but we do say that anything outside this expressly assigned scope must belong to the Central Government. The establishment of full provincial autonomy connotes the relaxation of the powers of superintendence possessed by the Government of India and the Secretary of State so as to leave the provinces their own masters in regard to the subjects entrusted to them in their respective territories. For our purposes we have not assumed what definite form the future Government of India is going to take, although we have kept in front of us the probability of the national government of the country being placed on an equal footing with the other Dominions at no distant date. Whatever powers are at present possessed by the Secretary of State would, on the attainment of Dominion status, be transferred to the Central Government. The system of provincial autonomy recommended would leave the present relation between the Central and Provincial Governments untouched except that the former's powers of intervention will be substantially circumscribed. The change of real importance that will take place will be that such provincial subjects, as are at present " reserved," will be transferred to the control of the Provincial Legislatures. We are alive to the fact that the proposed change would involve a more complete separation of finances between the Central and the Provincial Governments and would necessitate the drawing of a clearer demarcating line in taxation and legislation. Similarly, definite provision would be necessary to provide for the enforcement of the authority of the Central Government over the Provincial Governments. Again, the question of the borrowing powers of the provinces would have to be gone into and a method devised whereby the Central and Provincial Governments, which tap the same source when they go into the money market, do not compete with each other in interest rates. Lastly, there is the important question of the classification of subjects into Central and Provincial. All such matters will have to be carefully adjusted and provided for.

OBJECTIONS TO THE GRANT OF PROVINCIAL AUTONOMY.

(A) Communal Tension.

48. The immediate grant of full autonomy to provinces has been resisted on several grounds. The most formidable argument which has been advanced against the granting of provincial autonomy to this province is based on the prevalence of communal tension. Indeed, according to the minute attached to the Local Government's Memorandum by the Honourable Nawab Sir Ahmad Sa'id Khan, K.C.I.E., Home Member, it is very clear that the prevalence of communal tension is the only reason

why he does not advocate the transfer of all departments to the control of the Legislative Council at this stage. Nawab Sir Ahmad Sa'id Khan has very candidly stated that he has always been of opinion, and is still of opinion, that " in these provinces we have given sufficient proof of the fact that we can be trusted with responsibility to run the machinery of Government." He has admitted that he made it clear in the note which he, as a Minister, submitted to the Muddiman Committee in 1924, that full provincial autonomy with certain safeguards could be given to these provinces. He has equally frankly admitted that if he has now been compelled to " agree with great reluctance " to the continuance of what he calls the " cumbrous and awkward system of dyarchy," it is only because there has been marked deterioration in communal feelings in these provinces. We cannot help appreciating the candour and the weight of this pronouncement, knowing, as we do, that the Nawab is perhaps the most successful Indian administrator of recent times which this province has produced. The Nawab Sahib himself has had experience as a non-official member in the Reformed Council, and since 1923 has been a respected member of Government, for the first three years as a Minister and subsequently for the last three years as a member of the Governor's Executive Council. In the last-named capacity, he has been in charge of the Police, Judicial and Jail departments, which go to make up the subject of " Law and Order." It is in regard to the transfer of this subject that so many conflicting opinions are held. It is interesting to note that the Nawab Sahib's recommendation to defer the transfer of certain departments makes it clear that statutory provision should be made now to enable the Government of India to review after five years the question of transferring the remaining departments to the control of the Legislature. He regards the communal tension as a passing phase and is very sure that a change in feeling between the two communities will soon come about. We are equally hopeful, but we differ from the Nawab Sahib inasmuch as we feel that even though communal tension may be the stumbling block in our way at present, yet it does not constitute sufficient reason for withholding from the province an advance which it has earned and for which it has otherwise shown its fitness. The minority and backward communities should, of course, be provided with safeguards so that their rights are not trampled upon by the majority communities. This would, in our opinion, remove the existing communal tension and will make the various communities realise that they have to work together for the common good, and that their salvation lies in team work. At present there is no real objective before the different important communities : there is nothing that they can collectively work for. The present cleavage along communal lines is due very largely to the fact that in the expected Reforms each community is out to get for itself the most it can. Human nature being what it is, the majority community wants to have

all the power in its own hands which naturally makes the minority community feel uneasy. Likewise, the minority community probably thinks that now is the chance for it to drive a hard bargain, because it knows that the constitutional problem cannot be solved without its co-operation. We must not be taken to mean that there is not a large and influential section of either community which has taken a larger view of things and has risen above petty considerations of this character. If it can be shown that things have gone so far that every community in the country thinks in terms of itself alone, then the future would be gloomy indeed. There are hundreds and thousands of Hindus and Muslims who still live together in peace and with the friendliest of relations subsisting between them. They are proud to be Indians and would not let the fair name of the motherland be soiled. If proof were needed of this amity of relations between the two important communities, it would be forthcoming in no small measure in foreign countries and colonies where both the communities are living together as brothers and sisters. We do not hear of communal dissensions in those places, and Hindus and Musalmans are both shoulder to shoulder in the many pioneer ventures which they have undertaken in those countries. We cannot resist the conclusion that the present communal differences in the home country are similar to the differences which are known to arise amongst brothers when there is a question of the division of a testamentary property left by a father or other relation. Once the partition of the property is completed, the brothers take no time in making up their differences and share the paternal home without any discord. The system of Government we have recommended will have in it such safeguards as will automatically prevent one community riding rough shod over another. We consider that this assurance is necessary, as it will be the surest means of removing the present discord which is born of uncertainty and suspicion as to the future. For instance, if it is made clear that the executive of a Provincial Government will consist of Ministers drawn from both the communities which at present harbour distrust for each other and if the principle of joint responsibility is made incumbent it is not likely that the Hindu members of the Ministry would, or could, ignore their Muhammadan colleagues, and accordingly the Ministry as a whole would be bound to take decisions which would not injure the legitimate rights of the Muslim minority community. Likewise no party in the Council can afford to ignore the Muslim *bloc* which would be of sufficient strength to make its presence felt. If we analyse carefully the fears expressed in some quarters in regard to minorities suffering under a system of full responsible Government we would very soon discover that there is no real basis for them. To take one example, we have heard it said that a Hindu Minister in charge of Law and Order may act communally and may after a communal riot refuse to order the prosecution of his fellow-

religionists, or may withdraw cases already instituted against them by the district authorities. We consider that under the scheme recommended by us no Minister can show such flagrant disregard for justice and fair play—the Cabinet will include representatives of both communities, and a Hindu Minister must act jointly with his Muslim colleagues if the Cabinet is to govern as a whole. To our mind it would be impossible for either a Hindu or a Muslim Minister to ignore what is just and right for both the communities if the Ministry is to work in concord under a system of joint responsibility.

Safeguards for Muslims.

49. We recognise the need for such safeguards as will prevent the minority communities being unfairly treated. The demand for full provincial autonomy is endorsed by all the signatories to this report but one, of whom three are Hindus including one member of the Depressed Classes, two leading Musalmans, and one Anglo-Indian. The two Muslim members, however, want to make it clear that, as a condition precedent to the grant of provincial autonomy, certain rights and privileges must be safeguarded to their community.

They ask for the following :—

(1) Thirty-three per cent. representation in the Cabinet.

(2) Representation in both houses of the Legislature to be 30 per cent. of the members returned from elected constituencies, and, where the Governor has the power to do so, 30 per cent. of nominations to be confined to Muslims.

(3) Separate electorates for the Legislature according to the Congress-League Pact of 1916 as accepted in the existing constitution.

(4) Separate electorates for local bodies as existing at present.

(5) Effective representation in all autonomous bodies created and controlled by the Legislature, for example, the University and the Board of Intermediate Education.

(6) Representation in all services maintained by the Government to the extent of 33 per cent. and those maintained by local and other autonomous bodies in proportion to their representation in those bodies.

(7) Provision to ensure to the Muhammadans adequate share in grants-in-aid given by the State and the self-governing bodies.

(8) Guarantees for the protection and promotion of the Urdu language, Muslim education and culture, religion, personal laws and charitable institutions.

(9) A provision that no bill or resolution or any part thereof shall be passed in any Legislature or any other elected body if three-fourths of the Muslim members of that particular body oppose such bill or resolution or any part thereof

on the ground that it affects the interests particularly of the Muslim community; the question whether the matter is communal will be decided by the president of that body, against whose decision an appeal shall lie to the Governor.

Discussion of these safeguards: (a) Extent of Muslim representation.

50. We have given our best consideration to these safeguards, and we are in general agreement with the principles underlying them. So far as the weighted representation in the Legislature and the Cabinet is concerned, we consider that in the present state of affairs it must undoubtedly be guaranteed to the Muslim community. The extent of weighted representation in the Legislature which we recommend is the same as was contained in the Congress-League Pact of 1916 and is found embodied in the existing Constitution; we think that under the present circumstances it should not be disturbed.

We agree that in making such nominations as are within the Governor's unfettered prerogative he should be charged with the instruction that Muslims should get their proper share of these nominations.

(b) Separate Electorates.

51. The problem of separate electorates has been the subject of more controversy than any other. We feel, and the feeling is fully shared by the authors of the Memorandum of the Musalmans of the United Provinces, that the system of separate electorates is not an ideal one. On page 5 of their Memorandum they state:—

> "There is thus no alternative for the Muslims in the present state of the country except to insist on separate electorates and separate representation of the Muslims, much indeed as is their desire that it should be done away with soon."

We agree, therefore, that as long as the present estrangement between the two communities exists, they seem to be an unavoidable necessity. Insistence on the part of Hindus to abolish these separate electorates forthwith unfortunately widens the gulf between the two communities and makes the Muslims feel more suspicious and distrustful. The Hindu signatories to this report are sure that a time will come when their Muslim compatriots will themselves want the abolition of separate electorates. They would, therefore, leave it to the Muslims themselves to come in the fullness of time and say that they have no longer any reason to doubt the *bonâ fides* of their Hindu fellow-countrymen, and so they would merge their political entity into one common whole. The suggestion, therefore, is that separate electorates should be allowed for the present, but it should be open to the minority communities for whose benefit separate electorates have been instituted to decide at any time that they

should give place to joint electorates. This will be one of the provisions of the Constitution which should be capable of amendment by the Provincial Legislature itself provided a three-fourths majority of the community concerned agrees to the change. We have discussed the question of amendment of the Constitution in detail in paragraphs 82-93. We agree on the same grounds that Muslim representation should be through separate electorates in local bodies, though we think that it is not within the purview of the present constitutional inquiry to make suggestions for the local bodies which are a matter for the Legislatures creating them.

(*c*) SAFEGUARDS NOS. (5), (7), (8) AND (9).

52. We agree that the Muslims should be effectively represented in all autonomous bodies created and controlled by the Legislature, for example, the University and the Board of Intermediate Education. This can best be achieved by giving the Governor the power to intervene if the Legislature fails to provide such representation. Safeguards numbered (7) and (8) with regard to grants-in-aid, the Urdu language, Muslim education and culture, religion, personal laws and charitable institutions, are such as no one can take any objection to. Such safeguards are the normal features of most modern constitutions of the world. Safeguard numbered (9) is one on which Muslims have laid considerable emphasis, although the learned authors of the Montford Report did not find it possible to accept it. We appreciate the difficulties of working such a provision, but we suggest that the matter should be further investigated with a view to finding a satisfactory solution. We are cognizant of the difficulty which will present itself when a decision is asked for as to whether a certain matter affects solely and particularly the interests of the Muslim community or not, but we think that firstly, the President of the Legislature, and lastly, the Governor, may safely be trusted to give an unbiassed and impartial ruling which will be acceptable to all.

(*d*) MUSLIM REPRESENTATION IN SERVICES.

53. In regard to services we accept the principle that members of all communities should have their full share of appointments and we think that the purpose can best be served by charging the Governor with the fundamental duty of seeing to it that no one community unduly preponderates over others in the matter of services. In his speech at Calcutta in December, 1926, Lord Irwin dealt at length with the claims of the Muhammadan community to representation in the services. He laid down that the claim of the community should be met by reservation of a certain proportion of appointments to redress communal inequalities and in the case of appointments filled by competition by the maintenance of separate lists of Hindu and

Muhammadan candidates. He pointed out also that it was not possible to attempt a strictly proportionate representation of communities in the public services and that the general policy of the Government was directed not so much to securing any precise degree of representation as to avoiding the preponderance of any particular community. We are in complete agreement with this view and we consider that the Provincial Public Services Commission, which we have recommended, should be charged with instructions accordingly. Whilst realising that it is impracticable for a definite communal proportion to be maintained in all services, we agree with our Muslim colleagues that, as far as possible, one-third of the appointments in the Government services should be given to Muhammadans.

With regard to the safeguards as a whole proposed by our Muslim colleagues it is generally understood that only the principles underlying them can be incorporated in the Statute, it being impossible to lay down hard and fast details on such matters in the Constitution itself.

SAFEGUARDS FOR THE DEPRESSED AND BACKWARD CLASSES.

54. Our colleague Babu Rama Charana, who represents the Depressed and Backward Classes, has asked for certain safeguards for those classes.

(1) Adequate representation of the Depressed and Backward Classes in the Legislature.

For the present he has agreed to 15 seats being reserved in the Lower House out of a total strength of 182 and five out of a total strength of 60 in the Upper House. He is agreeable to both these sets of seats being filled by nomination. This arrangement is to continue for 10 years during which time it is hoped that the Depressed and Backward Classes will have sufficiently advanced so that their members will be returned in adequate numbers through the general non-Muslim constituencies. It is also hoped that it will be possible to further extend the franchise within this period of ten years in which case the Depressed and Backward Classes will preponderate in the electorate. Babu Rama Charana would like to make it clear, and we appreciate the fact, that he has accepted the system of nominations as only a temporary expedient which should be reconsidered at the end of 10 years. If on the expiry of this period it is found that the Depressed and Backward Classes are unable to secure adequate representation through the general non-Muslim constituencies, the Legislature, and failing it, the Governor should be empowered to create special constituencies for the exclusive benefit of those classes, the seats so reserved being filled by election by separate or joint electorates as may be decided.

(2) Fair representation of the Depressed and Backward Classes in the Cabinet.

The Governor will naturally try to avoid communal inequalities in selecting his Ministers and we would leave this matter to his good sense. We do not wish to fetter his discretion as we realise that the formation of a stable Ministry under the new Constitution will not be an easy matter, and we do not wish to unduly increase the difficulties. We would be quite content if amongst other factors which the Governor and the Chief Minister take into account in selecting Ministers is the question of adequate representation of all classes and communities.

(3) Representation in the local bodies by nomination to the extent of 8 per cent. of the total strength of those bodies. The power of nomination should be vested in the Governor instead of the Government as at present. This system of nomination will be subject to reconsideration in the same manner as described under (1).

We are in sympathy with the desire of the Depressed and Backward Classes to have a share in the local self-governing bodies, but as already stated elsewhere, the Constitution can hardly interfere with details of matters which are the special concern of the Legislatures, and the best safeguard which can be improvised is that the Governor should be charged with the duty of preventing communal inequalities in such matters, and accordingly the power to make nominations to redress such inequalities should vest in the Governor.

(4) Effective representation in all autonomous bodies created by the Legislature, e.g., the Universities and the Board of Intermediate Education.

We have given the Governor the power to secure the impartial treatment and protection of the diverse interests of, or arising from, race, religion and social condition; the Governor will naturally use his powers in cases of all hardship, and the claims of the Depressed and Backward Classes should receive his special consideration.

(5) Adequate and effective representation in all public services under the Government and the local self-governing bodies.

We agree that the Depressed and Backward Classes deserve encouragement and we have no objection to the Public Services Commission being instructed to bear the claims of these classes in mind when making appointments, and we recommend accordingly.

(6) Special facilities regarding education together with adequate share of public grants-in-aid.

We attach the greatest importance to this demand. The Depressed and Backward Classes as defined by our colleague Babu Rama Charana constitute a majority of the population of the province. Once they are educated, and once the franchise is sufficiently widened, they will not stand in need of any safeguards at all. They would by virtue of their numbers control the Legislature and thereby the Government of the province.

The best, therefore, we can do for them is to hasten that day. We are also convinced that as advancement and education proceed the present classification of the Depressed and Backward Classes will change. A great many castes which may at present be included within the definition of " Backward " classes would, once they are high up in the social and educational ladder, refuse to be so defined and would probably resent to be relegated to that category. We, therefore, recommend that special facilities should be provided regarding the education of the Depressed and Backward Classes. The greatest difficulty in considering the claims of the Depressed and Backward Classes is the fact that a classification, acceptable to all and one which would hold good for all times, has yet to be agreed upon. It is impossible for a third party to definitely label a caste as Depressed or Backward. No caste can be prevented from raising its head and saying that it considers itself entitled to be included amongst the higher classes. There is a distinct tendency towards such uplift, cases in point being those of Kurmis, Kahars and Chamars, who have already partly established their claims to be included in certain higher castes. The question naturally arises, can the Constitution relegate a person against his will to a category which he dislikes? The solution of the problem, therefore, is to accelerate the uplift of the existing backward classes so as to enable them to take up their proper position in the Hindu society of which they are an integral part. Association on a footing of equality and not dissociation is the remedy.

Safeguards for the Anglo-Indians and Domiciled Europeans.

55. Mr. H. C. Desanges suggests the following safeguards for the Anglo-Indian and Domiciled European community :—

(*a*) A decent representation in the Legislatures by separate electorate.

(*b*) Maintenance at the present figure of the appointments held by Anglo-Indians in the Railway, Customs, Posts and Telegraphs, and the I. M. D. services.

(*c*) Maintenance at the present figure at least of the educational grants to Anglo-Indians and Europeans.

We have made provision for (*a*) in our scheme of composition of the two houses of the Provincial Legislature. In regard to (*b*) we agree to the principle. We, however, realise that these services are under the direct control of the Government of India, and as such the matter has no bearing on our proposals and is not germane to the scope of our inquiry. About (*c*) we have recommended that Anglo-Indian and European education should be made a central subject.

(B) Lack of Party System.

56. An extension of responsible government in this country is often opposed on the ground that so far the country has not shown its aptitude for parliamentary government inasmuch as political parties are non-existent. In the first portion of our report, we have stated, on the authority of the United Provinces Government, that the Swaraj Party and perhaps also another opposition party have shown a good deal of cohesion and powers of organisation. We feel that at present it is impossible for parties other than those which range themselves on the side of the opposition to exist. The chief motive at present for the formation of parties is the wresting of control of the government from the bureaucracy and transferring it to the people. It must be admitted that the fight of any popular party against bureaucratic government in power armed with inexhaustible resources is a fight against great odds, and does not constitute a strong enough motive for keeping together a large political organisation. There is an entire absence of motive for the formation of a party which would support the Government. The history of the development of parties in England shows that it was after the introduction of responsible government that the party system developed itself to an appreciable extent. It is a well-known truism that the formation of parties must follow the introduction of responsibility and cannot precede it. It is only after the transfer of power and responsibility to the Legislature that one can expect important cleavages of principle to develop themselves and a struggle for power and office between two rival sets of members of the Legislature. So far as our province is concerned we have not had even the principle of joint responsibility in the executive of the Transferred side of the Government. Unless the Cabinet is worked on a principle of joint responsibility it is impossible to have even the semblance of a party system in the Legislature. The presence of the official *bloc* has been another obstacle to the growth of the party system. Speaking of our own province we are very optimistic that suitable party organisations will come into being as soon as responsibility is granted. We do not visualise very unstable Ministries, as we are sure that the elements which will constitute our provincial Legislature will show the necessary spirit of responsibility, and support and oppose Ministries on principles rather than on personal considerations.

(C) Backwardness of the Electorate.

57. Another formidable objection that has been taken to the grant of full provincial autonomy is that with an electorate consisting of 4 per cent. of the population parliamentary government would become oligarchical in character. "And," it is urged, "there is among the masses of the people no such citizen-sense as to afford any hope that they would unite to resist a determined attack on the Constitution in the way in which, for

example, the people of Britain united in May, 1926." The analogy of England before 1832 is dismissed on the ground that, although there was a very small electorate, there was behind the Constitution a body that was not only ready but also able to support it against any attack. The illiteracy of the electorate is also urged as an argument against full transfer of power. In our opinion, however, the establishment of full responsible government in the provinces cannot be made to wait till the people have become literate. Backwardness of education did not act as an impediment to the introduction of responsible government in Canada or in any other Dominion. Neither is it an incontrovertible fact that elementary education by itself makes a person a better citizen. The Honourable Mr. G. B. Lambert himself admitted in his examination *in camera* that " an illiterate voter did not necessarily possess less citizen-sense than a literate voter and was as capable of knowing his own interests." It might even be stated that in India the average citizen without any educational qualification is more capable of exercising the vote than a person with a smattering of education. After all, the main functions of the voters are to choose right men as their representatives and to understand broad issues of policy. It is admitted that the Indian is not unfit to discharge these two functions properly. Every villager knows what benefit the Agra Tenancy Act of 1926 has brought to him. Even in countries where the standard of literacy is much higher the electors do not select the best men. As for party programmes it has been said by an able politician that " there is a great deal to be said for the voter who puts his trust in the character and respectability of a candidate rather than in specious election promises which cannot be or are not intended to be fulfilled." The charge that we are setting up an oligarchic Constitution is easily met by pointing out that an electorate consisting of about four million voters, which the extended franchise recommended by us will in our estimate yield, cannot be called oligarchic or undemocratic. And it must be remembered that this electorate is composed of a large variety of classes and interests; it will comprise almost all the tenants who have any status worth the name and it will include labourers who pay Rs.3 as monthly rent. The proposed literary qualification will also bring in a new leaven of interest. We are of the opinion, therefore, that an electorate such as this coupled with the Press which, as admitted by the Government, already wields an appreciable influence over the people, is a sufficient guarantee of the Constitution being run on true democratic lines. We are not prepared to believe that even to-day the elector does not understand his true interests, and we feel strongly that once he knows that it is in his own hands to make or mar himself, he will not use the power of the vote except in a sane and rational manner. It is hardly fair to judge the Indian elector by his past sins of omission and commission. The chance given to him

to show his capacity has been replete with difficulties arising out of the defective nature of the Constitution which was given him to work, and we doubt whether a much more enlightened elector would have fared a great deal better in these circumstances.

Consideration of the United Provinces Government's Scheme.

58. Before we discuss our proposals, we would like to say a few words in regard to the scheme which has commended itself to the United Provinces Government or, more correctly, the members of the Executive Council of the province. The United Provinces Government have been obliged to reject full responsible government in the province for which they consider time is not ripe yet, and they have recommended the continuance of dyarchy. The principal arguments which have been advanced against the grant of full responsibility are :—

(1) Absence of well-defined parties;

(2) inclination on the part of the Legislature to interfere in executive functions; and

(3) absence of an enlightened electorate to defend the Constitution against any attack.

We are not prepared to dispute the force of these arguments, but we would only like to say what we have already said that political education cannot proceed in an atmosphere of irresponsibility. The last nine years of the working of Reforms have shown that we have made considerable progress in developing political sense, which is the one remedy for the ills with which we are described to suffer at present. The United Provinces Government have been obviously hard put to it to find a solution. They have examined a number of schemes which they have rejected as being impracticable or unsuitable They have fallen back on a scheme which, we are inclined to think, they would not themselves regard as an ideal one. We must not be understood to say that they have not made an honest and real effort to solve the conundrum with which they found themselves confronted. The fact of the matter is that there is no half-way house between full responsibility and irresponsibility. Dyarchy has been condemned in every quarter, and the United Provinces Government have themselves quite frankly admitted the defects of the existing system. Their scheme is nothing but dyarchy in which the important subjects of police, justice, land revenue and jails would be reserved. They propose extending the field of responsibility by the transfer of further subjects and by making the responsibility more real by the more careful definition of the Governor's powers of intervention, by changes in the position occupied by the Finance Department, and by the removal of the official *bloc* from the Lower House. They also recommend the institution of a Second Chamber consisting

of 60 members of whom 35 would be elected and 25 nominated. They would circumscribe the Governor's powers to overrule his Ministers, and they would transfer the official *bloc* to the Upper House. The Lower House would have all the functions of the present Legislature, but its powers in the matter of legislation would be shared by the Upper House. The Upper House would have the power of restoring any demands pertaining to the reserved subjects which have been thrown out by the Lower House, or, in the alternative, it is suggested that the Upper House should have the sole right to vote demands for the Reserved subjects. In other words, as the authors of the scheme put it, these proposals would give the Lower House the same powers as at present but would give the Upper House an opportunity of amending decisions which the Governor in Council found himself unable to accept. In addition, the Governor is to have powers of certification in respect of the Reserved subjects. The Ministers would be responsible wholly to the Lower House, where they would not have the support of an official *bloc* as at present. The one real advantage from the popular point of view of the scheme is that in respect of Transferred subjects the responsibility will be more real than at present, but to our mind the great defect of the scheme is that it will tend to separate the two parts of Government into water-tight compartments, the Transferred half having nothing in common with the Reserved half. It seems very difficult, if not totally impossible, to separate the departments of Government into parts wholly independent of one another. The activities of Government in the various departments overlap to such a large extent that the handing over of only one side of it almost entirely to popular control can only result in deadlocks which will be very difficult to remove. It is for this reason that the Ministers have opposed two important features of the United Provinces Government's scheme, namely, the removal of the official *bloc* from the Lower House and the creation of a Second Chamber. If the scheme is divested of these two features, then to our mind it not only loses all its attraction but also becomes unworkable. The position of the Ministers under such a scheme will become anomalous in the extreme. In the matter of legislation the Second Chamber is to have equal powers with the First. This will amount to substantial curtailment of the existing powers of the popular House in regard to legislation. Quite apart from this, the scheme does not provide for any machinery for the removal of deadlocks. For instance, if a certain legislation pertaining to Transferred departments is passed by the Lower House the Minister responsible for that legislation may find himself in a very difficult position if the Second Chamber, or even a joint session of the two chambers, rejects it. The Second Chamber will have a considerable nominated and official element, and yet it will have the power to force the hands of the Minister. Under such circumstances, he will find it very difficult to justify his position in the Lower House. Taking an

unbiassed view of the whole situation, we feel constrained to say that the scheme suggested by the United Provinces Government, though it is not devoid of certain merits, will not be the solution of our difficulties; nor will it result in a logical system of Government.

PART III.

RECOMMENDATIONS.

Outlines of our Scheme.

59. We have examined the working of the existing system of dyarchy and the case for further reforms, and, after a careful consideration of the more important objections to advance that have been raised and of the scheme that the United Provinces Government after itself rejecting a number of other schemes has proposed, we have deliberately come to the conclusion that nothing short of provincial autonomy will satisfy the needs of these provinces. Our own scheme is based on a full recognition of the various difficulties and apprehensions that have been troubling the minds of those who have attempted to frame constitutional proposals for these provinces, and it will be seen that it is not a perfect, unalloyed system of complete provincial autonomy conceived in an academic spirit. We have already said that the Indian Constitution will be based more or less after the Canadian model, wherein the Central Government will have all residuary powers and substantial powers of supervision and control over the local governments. In our scheme the Governor will retain substantial powers of interference and control. In order to reach the goal we have in view he will be expected gradually to assume the rôle of the constitutional head of the province and refrain from using the emergency powers which we are investing him with. The sole idea of these powers is to help to tide over the initial transitional stages. We are almost certain that, as the people advance politically, the Governor will not be called upon to exercise these powers, which will be automatically reduced. The Executive will consist of the Governor and a Cabinet of, say, six jointly responsible Ministers who will be selected with due regard to the claims for representation of the minorities. The Ministers may belong to either House of the Legislature—we are proposing a bicameral one—but they will be responsible to the Lower. For the stability of the Ministry we are recommending that, except at budget time, the Ministers should be removable on the vote of not less than an absolute majority of the House. The Legislature should consist of a Lower House of 182 members and an Upper House of 60 or 50 in accordance with our two schemes. In all legislation both the houses should have equal powers, deadlocks to be removed by joint sessions; in regard to the Finance Bill we would give certain powers to the Upper House,

which would enable it to require the summoning of a joint session to vote on important " substantial " cuts. We have been able to recommend a widening of the existing franchise by lowering the property and rent qualifications which obtain at present and by introducing an independent educational qualification. We have had to reject adult franchise as being impracticable at present. This is our scheme in broad outline. It provides for adequate safeguards and reduces the risks of a " sudden plunge into the unknown " to a minimum; and at the same time it postulates the minimum degree of constitutional advance that will satisfy the aspirations of the people.

POWERS OF THE GOVERNOR—(*a*) IN THE ADMINISTRATIVE SPHERE.

60. As we have stated above, the present political conditions demand that when full parliamentary government is introduced in the provinces the Governor should have certain emergency powers in the spheres of administration, legislation, and finance. These will, more or less, be the same as at present; but in the administrative sphere his powers of intervention will naturally have to be closely circumscribed. It is difficult to lay down precisely the matters in which he may intervene. We would only say that we are in general agreement with the list of such matters given in the sixth scheme examined by the United Provinces Government on page 25 of volume III of their Memorandum. These matters are :—

(1) Maintenance of the safety and tranquillity of the province and prevention of religious or racial conflict;

(2) the advancement and welfare of backward classes and a fair and equitable provision of educational facilities to them as well as to other minorities;

(3) the impartial treatment and protection of the diverse interests of or arising from race, religion, social condition, wealth or any other circumstance, and specially the securing of adequate representation of the various communities in the administrative services;

(4) protection of the public services (we have recommended that an appeal should lie to the Governor from decisions of the Public Services Commission in disciplinary proceedings against government servants);

(5) prevention of monopolies or special privileges against the common interest and of unfair discrimination in matters affecting commercial or industrial interests; and

(6) maintenance of financial stability and adherence to canons of financial propriety.

He will, as in the Dominions, appoint the Chief Minister, and, on his advice, the other Ministers. In extreme cases of a breakdown of the Ministry he should have the power to take over the administration for a certain period. In matters which

assume an all-Indian character and are not confined to one province the Governor, it is understood, will carry out the instructions of the Central Government, specially in matters affecting law and order.

THE SAME: (*b*) IN THE SPHERE OF LEGISLATION.

61. In the Legislative sphere he should retain the following powers:—

(1) To give or withhold his assent to a Bill passed by the Legislature;

(2) to reserve it for the consideration of the Governor-General;

(3) to return it for the reconsideration of the Legislature with his own recommendations, if any.

It seems unnecessary to give the Governor the power to certify legislation similar to that at present vested in him under Section 72-E of the Government of India Act of 1919. There are several grounds for our not giving him this power. (1) We have provided for a fairly conservative Second Chamber which can initiate legislation and pass it conjointly with the First Chamber. It is not likely that any really necessary legislation, will fail to secure passage with the help of the Second Chamber. (2) Certification of legislation by the Governor places him in a position of great difficulty and makes him unnecessarily unpopular. (3) So far as we can visualise, all legislation essential for the safety and tranquillity of the province will be the concern of the Central Government—no such emergent legislation has to be enacted by the Provincial Governments. In the financial field we do not likewise see the need for any emergent legislation to be passed by the Governor's affirmative power of certification.

Besides the above mentioned emergency powers, he will have the following general powers:—

(1) To summon, prorogue, or dissolve either House of the Legislature, and to call their joint session either at his own pleasure or at the instance of the Upper House;

(2) to address either House of the Legislature and to require for that purpose the attendance of the members;

(3) to appoint the chairmen of the first meetings of the newly-constituted Houses of the Legislature for the purpose of electing their Presidents;

(4) to appoint the time and place of the meetings of the Legislature; and

(5) to nominate members to the local bodies and to the Legislature to represent the Depressed and Backward classes and other interests which in our scheme of the composition of the Legislature are to be represented by nomination.

With regard to the exercise of some of these powers the Instrument of Instructions should contain general directions qualifying the discretion of the Governor. For example, it should be laid down that in summoning, proroguing, or dissolving the Legislature he should ordinarily be guided by the advice of the Ministry. The idea is that if the Ministry choose to make an appeal to the people the Governor should not stand in their way; this is a generally recognised right of ministries in the parliamentary system of government. But the Governor's power of dissolution should not be confined to occasions when the Ministry desires it. To take another instance, in making nominations he should consider the recommendations or suggestions of recognised bodies or associations of the classes or interests which are to be represented: this provision is very important as it removes from the system of nomination one of its chief defects.

(c) Financial Safeguards.

62. The Governor should have the power to authorise expenditure necessary for the "safety and tranquillity" of the province. Some expenditure will have to be set apart as non-votable Permanent Charges on the lines of the Consolidated Fund in England. These charges will include interest and sinking fund charges, expenditure prescribed by or under any law, and the salaries, pensions and allowances of certain persons (such as judges of the High Court and members of the all-India Services holding posts at the time of the introduction of the new Constitution). There is some difficulty as to how items of expenditure are to be included in the Permanent Charges. Generally speaking, we think that they should be embodied in a statute passed by the Central Legislature after the local Legislature's opinion has been ascertained on it. We are definitely against the continuance of the power in regard to finance in the Secretary of State.

The above list of the powers of the Governor may at first sight appear to be very large, but it is obvious that no Governor will exercise them unless he has real grounds for doing so. Even under the present dyarchic system in the course of nine years, the Governor did not even once use his power of certification of Bills and only twice certified expenditure. On the other hand, it must be recognised that the Constitution must contain provisions for every contingency.

The Ministry.

63. The question of the selection of the Ministry has engaged the careful attention of our Committee. Several alternative methods of doing this were minutely examined, and we have come to the deliberate conclusion that the best method is that in which the Chief Minister is selected by the Governor, and

the other Ministers also are appointed by the Governor, but on the advice of the Chief Minister. This arrangement conforms to the traditional system of cabinet government of the British type, and we have thought it best to adhere to it. We feel that six Ministers would be sufficient to carry on the government of our province. We have already said that we would like the proper proportion of communal representation to be maintained in the Ministry. The Ministers may belong to either House of the Legislature. We would do away with the existing restriction under which a nominated member representing a particular interest or community is ineligible for a ministership. We would also suggest that a Minister who is a member of one House should be represented in the other House by a Parliamentary Under-Secretary.

Relation of the Ministry to the Legislature.

64. The Legislature will continue to exercise its control over Ministers in the different ways which are open to it at present, namely :—

(1) by refusing supplies;

(2) by reducing their salaries;

(3) by motions questioning a Minister's policy in a particular matter;

(4) by motions of no-confidence;

(5) by motions of adjournments; and

(6) by resolutions.

We have given very serious consideration to the question of giving some degree of stability to the Ministry against any possible irresponsibility of the Legislature. It is a commonplace that the British system of cabinet government works best when there are two parties and not when there are a number of groups in the Legislature. We have already alluded to the fact that with one or two exceptions the organisation of parties in this country is not very far advanced, and it seems certain that for some time to come, at any rate, there will be more than two parties in the Legislature. The example of France, where the Legislature is dominated by a number of groups, has not been without its object lesson to us, and we have been alive to the necessity of making some provision whereby too frequent changes in the Ministry would be guarded against. At the same time we realise that any artificial support given to the Ministry would militate against the fundamental principle of popular control which we have taken as the basis of the future government of the province. After judging the *pros* and *cons* of the whole question we have come to the conclusion that the Ministry should be removable by an absolute majority of the Lower House instead of by an ordinary majority present at any meeting. This would amount to a substantial safeguard against frequent falls of the Ministry. For example, if the Lower House is composed of

182 members, control by methods (4) to (6) enumerated above would only be effective if at least 92 members vote against the Ministry. This protection would not be available in the case of methods (1), (2) and (3).

We realise that in the matter of voting of supplies or making cuts in the Ministers' salaries or other cuts moved by way of censure, it will not be practicable to insist on an absolute majority. The Legislature can take these steps only during the Budget Session, and it seems essential that the Ministry should at least during the Budget session be prepared to abide by the verdict of a simple majority of the Legislature. During the Budget session attendance is usually full, and so there will not ordinarily be a great difference between an absolute majority and an ordinary majority at the meetings during that session. During the rest of the year a motion of no-confidence or a resolution disapproving of the policy of the Ministry could be passed only by an absolute majority, and we feel that that would constitute a sufficient safeguard against the dangers of " snap divisions." The Committee is averse to giving the Governor wide arbitrary powers for retaining a Ministry against the will of the Legislature. The Governor's remedy would lie in dissolving the Legislature in case of repeated falls of the Ministry. This is the constitutional method followed in other countries, and we see no reason why there should be any other provision in our province.

The Legislature.

65. We are unanimously of the opinion that in a system of full provincial autonomy a bicameral Legislature is essential. A Second Chamber based on a restricted franchise will have a steadying influence, and will, for some time to come at any rate, be very necessary for minimising the risks of the full transfer of power. Second Chambers exist in a majority of the constitutions of the world, and we have recommended their institution in our province after thoroughly sifting the arguments which have been advanced for and against them. In the absence of a Second Chamber the Governor will be called upon much more frequently to interfere with the decisions of the Legislature, and this will place him in a position of difficulty. We consider that instead of the essential safeguards being left solely to the Governor it would be far more satisfactory from the point of view of everybody that a Second Chamber composed of the responsible and saner elements of the people should serve as the safety valve.

Powers of the Second Chamber.

66. We have given careful thought to the question of the powers which should be given to the Second Chamber. We are of opinion that it should not be an inane, effete body, providing only a weak brake to the effusions of the First Chamber, although we recognise that the real motive power must rest with the latter. It goes without saying that it will be the First Chamber that will

make or unmake Ministries even though, as we have recommended, the Ministers may be selected from either Chamber. We are agreed that the Second Chamber should be invested with the following powers.

In matters of legislation, including taxation bills, the Second Chamber must have equal and concurrent powers with the First. All bills may originate in either Chamber, though an exception in this regard may be made in respect of taxation bills which may not be initiated in the Second Chamber. The method of removing deadlocks should be in principle the same as that provided by the Government of India Act, 1919, for the Central Legislature, but with a slight modification. If either Chamber refuses to pass a bill in the same form as it was passed by the Chamber in which it originated, or passes it with amendments that are unacceptable to that Chamber, the Governor should have, at the instance of the Second Chamber, or of his own accord, the power to call a joint session of both the Chambers, and the matter will be decided by a majority of votes.

In regard to the Budget we think that it will not be possible to give to the Second Chamber absolutely equal powers with the First. The power over the purse is the recognised right of the popular House to which the Ministry is responsible. If the Ministry can seek the aid of the Second Chamber in restoring demands refused by the First the system will become unworkable. We would, however, make the suggestion that the Second Chamber might be allowed to consider the Budget like any other bill and make its own recommendations, which would be considered by the First Chamber; in case the latter does not accept these recommendations, and the former considers them to be of importance, the former might suggest to the Governor to call a joint session and decide by a majority. Under this scheme the Second Chamber would be expected not to insist on every one of its recommendations being considered in this manner. It will resort to this method of revision only in matters of real importance, so that in ordinary matters relating to finance the First Chamber will continue to have the final say. We would, however, make it clear that the Second Chamber should have no power to interfere in censure motions; if a cut is intended by the First Chamber to be an expression of want of confidence the Ministry should not be allowed to seek the help of the Second Chamber to rescind or modify it. The suggested power of the Second Chamber would be exercised only in the case of substantial cuts made on the merits of a demand.

Composition of the Second Chamber.

67. We are of opinion that the Second Chamber should be composed of landlords, stake-holders and others who may bring to the Chamber the benefits of official experience, expert knowledge, and intellectual attainments in various fields. In other words, besides landed aristocracy, the aristocracy of commerce,

of talent, and of past achievements in various fields, should also find a place in the Second Chamber. We are agreed that there will be no place for the official *bloc* in either Chamber. Two alternative schemes for the composition of the Second Chamber have been considered. The following scheme has the support of the Chairman, Mr. H. C. Desanges, and Babu Rama Charana :—

First Scheme.

Total strength	60
Elected by General Constituencies—	
Non-Muhammadan and Muhammadan	30
European	2
Anglo-Indian	2
Indian Christian	2
Elected by Special Constituencies—	
Trades and Commerce	5
The British Indian Association of the Taluqdars of Oudh	3
The Agra Province Zamindars' Association ...	2
The Muzaffarnagar Zamindars' Association ...	1
The University Constituency	1
Nominated—	
Depressed and Backward classes	5
Labour	1
Women	1
General nominations	5

Rai Bahadur Kunwar Bisheshwar Dayal Seth, Khan Bahadur Hafiz Hidayat Husain and Dr. Shafa'at Ahmad Khan are for the following scheme :—

Second Scheme.

Total strength	50
Nominated (10)—	
Depressed and Backward classes	1
Labour	1
Women	1
Universities	1
Europeans	1
Anglo-Indians	1
Indian Christians	1
General nominations	3
Elected by Special Constituencies (10)—	
British Indian Association	4
Agra Province Zamindars' Association	3
Muzaffarnagar Zamindars' Association	1
Chambers of Commerce	2
Elected by General Constituencies	30

Under either scheme, the number of seats reserved for the Muslims is to be in accordance with the Lucknow Pact as embodied in the Rules framed under the Government of India Act, 1919.

THE FIRST CHAMBER.

68. We have given due consideration to the criticism that at present the constituencies are too large to make it possible for direct touch to be maintained between the electors and their representatives. The easiest solution of the difficulty would be to increase the strength of the House. We have unanimously accepted an increase of approximately 50 per cent. in the strength of the present Legislative Council (which will become the First Chamber) as being sufficient to meet the present needs, and we suggest that the First Chamber should consist of 182 members as detailed below :—

Total strength	182
Elected by General Constituencies—	
Non-Muhammadan and Muhammadan	133
European	2
Anglo-Indian	3
Indian Christian	3
Elected by Special Constituencies—	
Trade and Commerce	5
British Indian Association	8
Agra Province Zemindars' Association	6
Muzaffarnagar Zemindars' Association	2
University of Allahabad	1
Universities of Agra and Lucknow	1
Nominated—	
Depressed and Backward classes	15
Ladies	2
Labour	1

As in the case of the Second Chamber, the number of seats reserved for the Muslims in the First Chamber should be in accordance with the Lucknow Pact of 1916 as embodied in the Rules framed under the Government of India Act, 1919. We have already said that in making such nominations to either Chamber as are within the Governor's unfettered prerogative he should be charged with the instruction that Muslims should get their proper share of these nominations. It is also understood that the election of the Muslims should be by separate electorates.

In regard to the Depressed and Backward classes it is felt that the provision of separate electorates for them is a matter of great difficulty. Babu Rama Charana, although he does not see any great difficulty in forming separate electorates, agrees with the rest of the Committee that under the existing circumstances the rights of the Depressed and Backward classes would be best safeguarded by reserving for them 15 seats to be filled

by nomination. In making these nominations the Governor may take into account recommendations of recognised societies and associations of the different sections of the Depressed and Backward classes. Since the Depressed and Backward classes constitute a majority of the population of the province they will need protection only so long as they are socially and educationally backward. When their present disability is removed they would be able to compete on even terms with the higher class Hindus. This reservation should, therefore, hold good only as long as the community finds it impossible to obtain adequate representation through the general non-Muslim constituencies, for which a period of 10 years has been suggested. The right to determine as to when this reservation should be discontinued should be left to the Legislature and to the Governor. As already stated, in time the Depressed and Backward classes will find it to their own advantage not to have such a reservation.

We have made provisions for a large number of seats for Zemindars and Taluqdars. We consider that they deserve this separate representation in view of their political importance. Although so far they have constituted the largest majority of the elected members of all the three successive Councils, yet they fear that, as time goes on and democracy advances, they may find it increasingly difficult to secure that proportion of seats in the local Legislature which they deserve by virtue of their being the largest contributors to the provincial exchequer. The constituencies which would return the Zemindars to the Legislature would be in respect of the Taluqdars of Oudh, the British Indian Association of Lucknow, and in respect of the Zemindars of the Agra Province—(1) the Agra Province Zemindars' Association, and (2) the Muzaffarnagar Zemindars' Association.

In regard to trade and commerce we are of opinion that besides the three seats at present allotted to the two Chambers of Commerce at least two seats should be allotted to provide representation to (*a*) the established industries of the province, and (*b*) commercial concerns which pay a specified amount of income tax. The Upper India Chamber of Commerce, which is at present represented by two seats, consists mainly of European mills and concerns in Cawnpore. Its membership outside Cawnpore is very limited. The United Provinces Chamber of Commerce has a membership peculiar to itself and does not embrace within its fold a very large number of Indian industrial and commercial interests of the province. We consider that a constituency can be formed which should embrace all commercial and industrial concerns in the province which either pay a certain amount of income tax per year or fall within the definition of a factory under the Indian Factories Act, and two seats should be allotted to this constituency. We are aware that there is a constituency of this kind at present in the Punjab.

The representation provided for Europeans, Anglo-Indians, and Christians shall be from separate electorates which would not be

difficult to set up. We are opposed to the present system of nomination which applies to Anglo-Indians and Christians. In regard to Women and Labour we think the only workable method would be nomination. It does not seem practical politics to think of setting up constituencies for these special interests.

Term of the Legislature.

69. We feel that the present term of the Provincial Council is inadequate. The first year is taken up by a new member in gaining experience and acquiring knowledge, the second year is the time when most members can settle down to useful work, the third or the last year is the time when members are preoccupied with thoughts of the next election. The term of three years, therefore, does not give to the average member more than one year of active work. There seems to be no definite advantage in putting the country to the expense and excitement of a general election every three years. We have, therefore, come to the conclusion that the normal term of the Lower House should be five years and that of the Upper House six.

Franchise: For the First Chamber of the Provincial Legislature.

70. We have given our particular consideration to the question of franchise as it is the very basis of a democratic structure of Government. As we have shown in Part I, the present electorate is only 3.5 per cent. of the total population of the province. We are of opinion that conferment of further powers on the Provincial Legislature will render a large extension of the franchise immediately imperative, though not to an extent which would under the existing circumstances make it unworkable. We have fully considered the arguments urged in favour of an immediate provision of adult suffrage, but much as we consider it to be a consummation to come as early as is possible, we feel that it is not practical politics to enfranchise all adults just at present. As a condition precedent to the establishment of adult suffrage, there must be a good deal of advance in the education and political consciousness of the people. We do not subscribe to the view that illiteracy is by itself a sufficient ground for withholding any widening of the franchise, but we do feel that the immediate enfranchisement of the 88 per cent. of the adult males and the 99.6 per cent. of the adult females who are at present unenfranchised will involve too sudden and too risky a change. The people have not even had the training and experience of wide Municipal and District Board franchises which are practically the same as that for the Legislative Council.

A circumstance that we have kept in view in our discussions on the extension of the franchise is the great disparity between the proportion of electors to the population in the urban and the rural constituencies respectively: whereas approximately 10 per

cent. of the urban population is enfranchised at present, the proportion of rural electors to the rural population is only 3 per cent. Our recommendations, therefore, for the extension of the urban franchise do not aim at any considerable increase in the electors.

After considerable deliberation we have decided to recommend a lowering of the existing rent and revenue qualifications for the rural franchise, the provision of an independent literary qualification for both rural and urban constituencies, and the addition of special qualifications for women. At present, broadly speaking, all persons who pay Rs.25 as land revenue or Rs.50 as rent get the vote : we recommend that the figures be reduced to Rs.10 and Rs.25 respectively. We have no figures to indicate the increase that this reduction will result in. We were, however, supplied by the Local Government with statements of persons paying land revenue and rents between certain limits. These statements were prepared in 1918, but they give a fairly correct idea of the present position. The number of persons paying between Rs.10 and Rs.25 as land revenue were not ascertained, but the number of those paying Rs.25 and over were estimated to be about 333,000 and those paying from Rs.1 to Rs.24 to be 448,000. The number of persons paying between Rs.25 and Rs.49 as rent was estimated at 1,009,000 and of those paying Rs.50 or over at about 817,000.

Besides lowering the existing rent and revenue qualifications we have decided to recommend the addition of an educational qualification for both rural and urban constituencies. We consider that this provides the best alternative to adult franchise. Compulsory primary education has been introduced in various parts of the province, and it is hoped that in time every boy and girl will have passed through a primary school. Consequently as education advances, the franchise will be automatically widened. Another consideration that has weighed with us is that under the present property qualifications many persons that would be very good electors are left out as a result of the rules relating to " joint families " and " joint tenancies." The educational qualification will bring many of such persons on the electoral rolls. Lastly, we do think that an educational qualification will, to some extent at least, stimulate the progress of education. The qualification that we would recommend is the possession of the Upper Primary—class IV—certificate : any higher educational test will result in a negligible increase. We have satisfied ourselves that there is no danger as to the reliability and authenticity of the Upper Primary certificates : they are properly issued and are recognised by the Education Department of the province. There will be no administrative difficulty, as we contemplate that those who *possess* the certificate should claim and get the vote. For the convenience of those who may have lost these Upper Primary certificates we recom-

mend that the passing of the Vernacular Final Examination should entitle one to the vote. There is no corresponding Anglo-Vernacular certificate issued by the Education Department, and consequently, in spite of the marked inequality between the Vernacular Upper Primary certificate and the Anglo-Vernacular Matriculation certificate, we have to accept the Matriculation (or other equivalent) examination of the Anglo-Vernacular schools as the minimum Anglo-Vernacular qualification for getting the vote. It may be noted that the passing of Matriculation (or equivalent) examination or a Proficiency examination in any vernacular or classical language qualifies one for the present District Board franchise.

Lastly, we would provide for special franchise facilities for women. We find considerable force in the points made by the Ladies' Deputation before the Joint Free Conference at Lucknow. Under Hindu law very few women can inherit property in their own right, and the result is that only .4 per cent. of the female adults in the province are at present enfranchised. We, therefore, recommend that in addition to the franchise qualifications that they may possess in their own right, they should get the vote also in their husbands' right to a certain limit as indicated below. We would, however, raise the age limit in the case of women from 21 to 25.

We now sum up our recommendations for alterations in the franchise for the Lower House of the Provincial Legislature—

(1) *Rural as well as urban constituencies*—

(*a*) All persons, 21 years of age, who possess the Vernacular Upper Primary (IV standard) certificate, or have passed the Vernacular Final or the Anglo-Vernacular Matriculation (or other equivalent) examination, should be enfranchised.

(*b*) In addition to the ordinary franchise qualifications that they may possess in their own right, the right of vote should also be given to women whose husbands possess property, rent or tax qualifications three times those qualifications that at present entitle men to the Legislative Council franchise; provided, always, that no women under 25 should get the vote. In other words, the wife of a man who pays Rs.150 as agricultural rent or Rs.75 land revenue or who occupies a house or building of an annual rental value of Rs.108, or who pays income-tax on an income of Rs.6,000 should be enfranchised if she does not possess the ordinary qualification in her own right.

(2) *In rural constituencies*—

(*a*) payment of Rs.10 or more as land revenue, or

(*b*) payment of Rs.25 or more as rent should entitle one to vote.

FOR THE SECOND CHAMBER OF PROVINCIAL LEGISLATURE.

71. We are of opinion that the franchise for the Second Chamber of the Provincial Legislature should be on the same lines as that for the Council of State. We have already given two alternative schemes of composition of the Second Chamber. According to either of them some of the seats will be filled from special constituencies; the franchise in these constituencies need not be discussed. For the general constituencies we would recommend the same franchise as that for the Council of State with the exceptions that payment of Rs.2,000 as land revenue (instead of Rs.4,000) and of an income-tax on an income of Rs.5,000 (instead of on an income of Rs.10,000) should entitle one to the franchise for the Provincial Second Chamber. This reduction of the qualifications by a half is necessary as the electorate based on the Council of State franchise will be too limited for electing 30 members.

FOR THE LEGISLATIVE ASSEMBLY.

72. We consider that no change in the existing franchise for the Legislative Assembly is called for; the candidates have a sufficient number of electors, and scattered over wide areas, to canvass. The only addition that we would recommend is that graduates of recognised Universities should be given the vote, subject, of course, to the age of qualification.

73. We think it necessary to recommend certain alterations in the existing franchise for the Council of State :—

(1) The land revenue limit should be reduced from Rs.5,000 to Rs.4,000. The main reason for this is that the proportion of the assessment to assets has been reduced in our province from 50 per cent. to 40 per cent.

(2) Vice-chairmen of Municipal and District Boards and presidents and vice-presidents of registered Co-operative Societies should be deprived of the vote. In view of the high land revenue and income-tax qualifications we consider the enfranchisement of these classes as rather anomalous.

(3) Instead of all the members of a Court of a University only the members of its Executive Council or Syndicate should be entitled to vote. There are now a number of Universities in the province and the total membership of the several courts is rather high.

(4) Presidents of only *recognised* Chambers of Commerce in the province should be entitled to vote. This is only a technical alteration.

(5) All retired permanent judges of the High Court or the Chief Court and retired members of the Provincial and the Central Governments should be enfranchised. Comment is superfluous.

THE SERVICES : SCOPE OF OUR RECOMMENDATIONS.

74. We have received a large number of Memoranda from the various Imperial and Provincial Services raising issues of promotion and emoluments and allowances which have obviously little connection with the present constitutional inquiry. We have confined our discussions to the few important questions which will be affected by our proposals for constitutional changes in the province and we summarise our views on each of these matters below.

THE FUTURE OF THE ALL-INDIA SERVICES.

75. The most important question that has attracted wide attention and on which divergent views have been expressed in the country is that of the future of the All-India Services, specially the Indian Civil Service and the Indian Police Service. The United Provinces Government's proposals do not contemplate the transfer of Law and Order, and they have naturally recommended the retention of the Indian Civil Service and the Indian Police Service. It is, however, noteworthy that in the case of the services appertaining to the departments the transfer of which they have recommended they observe that " the result of the transfer of the Irrigation and Forest Departments would be to close all further recruitment to the Indian Services of Engineers and the Indian Forest Service." Further, they admit that the retention of the Indian Civil Service and the Indian Police Service in a unitary system would give rise to " anomalies and difficulties." We entirely agree : we hold that the retention of these services in a system of full provincial autonomy would unnecessarily complicate matters. We have no doubt that those who advocate the retention of these services even in a system of full provincial autonomy are not oblivious of the difficulties arising from the constitutional position subsisting between the Ministers and their subordinates, the members of the All-India Services. What, to our mind, such thinkers fear is that Provincial Services will not attract Europeans of the requisite ability and that the abolition of these All-India Services will affect the efficiency of the administration. In our opinion there is no ground for either of these apprehensions. The abolition of the Indian Civil Service and the Indian Police Service would not mean any lowering of the standard; it would be possible to retain the present separation into superior and inferior grades, the Indian Civil Service being replaced by a Provincial Civil Service—" Class A "—and the present Provincial Civil Service being designated as " Class B." Special terms such as overseas allowances may be offered to attract Europeans to the " Class A " Services. In this connection we would make special mention of the extremely useful and helpful Memorandum submitted by Mr. W. R. Barker, the President of the Public Services Commission. His analysis of the position leads him to the conclusion that " it can no longer be said,

even approximately, that the best Indians get into the Indian Civil Service." Mr. Barker goes further and remarks :—

> "I have been assured from many quarters that the entrants to the Provincial Services are oftener superior to those for the Indian Civil Service, and I know of several cases in which a candidate who has been unsuccessful for the Provincial Service has been successful for the Indian Civil Service."

At another place he remarks in the same connection :—

> "The situation is really becoming chaotic. The distinction between a superior service and an inferior (especially such a wide distinction as exists in India) can only be justified as long as the personnel of the one service is markedly superior to that of the other. As regards recruits now coming forward no such marked superiority exists."

In view of these well-considered conclusions of the President of the Public Services Commission it cannot be very well asserted that the abolition of the Indian Civil Service and the Indian Police Service will necessarily mean a lowering of standards. It is noteworthy that the Inspector-General of Police of these provinces feels more satisfied with the work of the officers promoted from the Provincial Police Service than with the directly recruited Indians to the Imperial Police Services.

Dr. Shafa'at Ahmad Khan differs from us in this matter and thinks that the Indian Civil Service and the Indian Police Service should be retained for some time to come. He has discussed his point of view in his Explanatory Note.

Rights of the Present Members of the All-India Services Safeguarded.

76. The change, however, will not prejudice the terms under which the present members of the All-India Services were employed. Under the existing rules the right of premature retirement has to be exercised within a year of the transfer of the field of service to which the members concerned were recruited. We are prepared to extend this period. Besides, the protection of their rights and privileges will, as at present, be a special charge imposed on the Governor by the Instrument of Instructions. We have also recommended that the salaries and pensions of members of the All-India Services in employ at the time of the introduction of the next constitutional changes should be included in non-votable permanent charges.

A Provincial Public Services Commission.

77. The most important safeguard that the services require in a system of full responsible Government is against the influence of party politics. It has been recognised all over the world that the Ministry or the Legislature should have no hand in the recruitment, promotion, or punishment of the permanent

servants. The best protection of the services from the changing politics of the Legislature will be afforded by a Provincial Public Services Commission, and we consider its establishment an essential part of our proposals. It has sometimes been urged that a Provincial Public Services Commission is a costly luxury, that there will not be enough work for it. We do not subscribe to this view. We are recommending the provincialisation of all the services and we would entrust the Commission with extensive functions. We would wish it to become, in the words of the Lee Commission, " the recognised expert authority on all service questions," and we are sure the Provincial Public Services Commission will have its hands full. In our opinion the Commission should have the final say in all questions relating to the recruitment and qualifications of candidates for at least the higher services in the province. It should determine the rules for and organise competitive examinations. We would also give it sole disciplinary powers in the case of the higher services. At present the system is very unsatisfactory. All disciplinary orders in the case of the Provincial Services are first passed by the Governor-in-Council or the Governor acting with his Ministers, and an appeal from the orders lies to the Governor. Mr. Barker rightly remarks that this is " a contradiction of everything which an appeal ought to be." We would, therefore, make the Provincial Public Services Commission the tribunal for disciplinary proceedings in the case of the higher services, its orders being subject to an appeal to the Governor. The Commission should be charged with the duty of seeing that all classes and communities, including the Depressed and Backward classes, receive their proper share of appointments. To keep the members of the Commission above party politics we would recommend that they should be appointed by the Crown like the Judges of the High Court.

European Element: Anglo-Indian Demand.

78. In the present political condition of the country we consider it important that a certain proportion of Europeans should be retained in the services, specially in the Executive and Police Services. Mr. H. C. Desanges is of opinion that the European element in those services should not be allowed to fall below 25 per cent. for some time to come. We see, however, that this is bound to be the case as the present numerical strength of the Europeans in the services is such that their proportion will remain more than 25 per cent. for a considerable time to come.

Mr. Desanges has suggested, and we agree with him, that the proportion of appointments held by the Anglo-Indians in Railway, Customs, Post and Telegraphs and I.M.D. services should not be reduced. It is in these departments that Anglo-Indians have shown the greatest aptitude for public service,

and alike in the interest of efficiency and in fairness to Anglo-Indians, we should not take away from them what they have. We, however, realise that the services in these departments will be the concern of the Central Government and not of the Provincial.

The Judiciary.

79. We would strongly recommend that the separation of the judiciary from the executive should be given effect to without delay. We regard this reform as overdue. We are opposed to the centralisation of the High Courts. They would continue to be under the Provincial Government as at present, although the appointment of Judges will, as now, remain a Royal prerogative. We would further like to suggest that the establishment of a Supreme Court in the country would be a necessary adjunct of the constitutional changes proposed. Without a Supreme Court there would be no tribunal to decide constitutional and other disputes between the different provinces and between the Central and the Provincial Governments.

Finance.

80. We have given careful consideration to the important note prepared by Mr. Layton, but as we have had no opportunity of going fully into the whole question of finance, we would not like to hazard final opinions on a subject which is at once so intricate and important. We, however, wish to record our disapproval of the proposal to impose a tax on agricultural incomes. We favour the idea that the present division of central and provincial revenues should be maintained; but as the present revenues are not sufficient for the requirements of the provinces, it is essential that the Central Government should make contributions to the provinces out of the surpluses which it would have in the future. Mr. Layton admits that with the devolution of more powers and responsibilities on the Provincial Governments, the revenue of the Central Government should exceed its requirements. It is only fair that these surpluses should be divided amongst the provinces. There seems to be no equitable basis of making this division other than that of making subsidies *per capita*. The exact amount of the subsidy per head will be decided from year to year as it will depend on the surplus which is available for distribution. The basis of distribution should, however, be the same for every province; there is no justification for making invidious distinctions as between province and province on grounds of "needs," "contribution to the Central taxes," and so on. In regard to borrowing we would keep a certain amount of control in the hands of the Central Government so that there may be no competition in interest rates between the different provinces. Apart from this each province should be left to borrow for itself whatever money it may require.

CENTRAL GOVERNMENT.

81. We feel that we are not really called upon to make any recommendation in regard to the future constitution of the Central Government. This appears to be a matter outside the purview of a Provincial Committee. We shall, therefore, touch only those matters which we consider are directly related to constitutional changes in the provinces. We have stated that all powers, which do not expressly devolve on Provincial Governments, should according to our scheme remain with the Central Government. We would suggest that if our proposals for provincial autonomy are accepted, European Education should be made a Central subject. With this exception we have no change to make in the present division of subjects as between the Central and Provincial Governments. Our special proposals regarding the amendment of the Constitution in this particular are given elsewhere.

As to the question of the introduction of responsibility in the Central Government, we have said that we contemplate Dominion Status at no distant date, and we feel that a substantial immediate advance is not only due but necessary in the interest of all concerned. We would, however, leave it to those who are more competent than ourselves to discuss what should be the degree and the nature of the next instalment of popular advance in the field of the Central Government. The provinces are directly interested in the future constitution of the Central Legislature. We have already stated what we would recommend the future franchise for the Council of State and the Legislative Assembly to be. As regards the composition of the Council of State we have no changes to suggest; but about the Assembly we would like to point out that the present constituencies are hopelessly unwieldy and it is humanly impossible for anyone to keep in touch with the electors. There are at present allotted to our province 14 seats in the Assembly. We would strongly recommend that this number be at least doubled. This would proportionately decrease the size of the constituencies, which at present in these provinces vary from 39,761 to 8,645 square miles in area. We are, however, not in favour of making election to the Council of State or the Legislative Assembly indirect and recommend that direct election should continue. We would make one exception: the Provincial Legislature should be given the right to return by election from its own body one-fifth of the total number of Assembly seats allotted to the province. The vacancies created in the Provincial Legislature will be filled by means of bye-elections. If our recommendation is accepted, this province would return 28 members from the general territorial constituencies and seven as representing the Provincial Legislature.

AMENDMENT OF THE CONSTITUTION: GENERAL CONSIDERATIONS.

82. We have given considerable thought to the question of the Amendment of the Constitution, and have endeavoured to

ascertain whether the processes of such Amendments as followed in other countries will hold good in our case. It is well known that a Constitution, no matter how carefully drawn up, is in time apt to become out of date owing to the changing needs of the country. New problems may arise, which at the time of drawing up of the Constitution cannot be foreseen. We realise that the existing conditions on which we are basing our present recommendations may change beyond recognition. A rigid Constitution will not adjust itself to such changing needs and will in consequence prevent expansion and development of the body politic along natural lines. Our peculiar needs and circumstances do not permit of our slavishly copying the provisions for the amendment of the Constitution that exist in the various countries of the West. We consider that a Constitution can be so fashioned and operated as to offer disruptive forces just as much free play as may disarm their violence and bring all parts of the country in reasonable agreement and unity under a Central Government. For such a Constitution the process of amendment must be neither too elaborate nor too easy and a deliberate and definite process must be prescribed.

Methods of Constitutional Amendment Examined : (*a*) The U.S.A. Constitution.

83. We have examined the processes by which some of the more important Constitutions of the world can be amended. The United States of America has the following :—

> " The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to the Constitution or on application of the Legislatures of two-thirds of the several States shall call a convention for proposing amendments which in either case shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislature of three-fourths of the several States or by convention in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress, provided that no amendments which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate."

The individual American State, as distinct from the United States, amends its Constitution by following a line similar to that of the article quoted above.

(*b*) The Australian Constitution.

84. The Australian Constitution has the following provision :—

> " The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament and not less than two and more than six months after

its passage through both houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives. But if any House passes any such proposed law by an absolute majority and the other House rejects or fails to pass it, or passes it with any amendment to which the first mentioned House will not agree, and if after an interval of three months the first mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first mentioned House, and either with or without any amendments subsequently agreed to by both houses, to the electors in each State qualified to vote for the election of the House of Representatives. When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

"And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law it shall be presented to the Governor-General for the Queen's assent.

"No alteration diminishing the proportionate representation of any State in either House of the Parliament or the minimum number of the representatives of a State in the House of Representatives, or increasing or diminishing or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law."

(*c*) The Canadian Constitution.

85. In the case of the Canadian Constitution the process of Amendment belongs to the Imperial Parliament. "There is, however, no difficulty in having an amendment made if and when desired. An Address to the Sovereign is passed by both Houses of Parliament at Ottawa asking for the amendment specified. The vote on the Address must be unanimous (or practically unanimous); otherwise it will not be forwarded to London. When the Address is received by the Colonial Secretary in London the desired amendment to the British North America Act is passed by the Imperial Parliament as of course and without debate.

This is, in substance, simply giving legal validity to an amendment agreed upon by the parties to the original contract, which they desire to amend."

(*d*) Other Constitutions.

86. Power of Constitutional Amendment is also possessed by Newfoundland, New Zealand and South Africa. The Irish Free State Constitution can be altered within Ireland. In Unitary States the methods of amendment are simpler than those in Federations. In France a change may be made in a joint meeting of the Chamber of Deputies and the Senate. Certain countries have fixed specific majorities for Constitutional changes. A two-thirds majority is required by Rumania and Bulgaria; a three-fourths by Greece and Old Saxony. Certain countries like Holland, Norway, Rumania, Portugal, Iceland, Sweden and some States in Latin America adopt the plan of combining the two-thirds majority with a dissolution followed by a reconsideration of the proposals of amendment. The Swiss Federal Constitution may be revised by means of legislation duly passed through both Houses, provided, however, that if one House rejects the proposals of the other, or if fifty thousand citizens demand any particular amendment, the matter is submitted to the vote of the entire Swiss Electorate. If there is an affirmative majority for the proposal, it is referred to the Federal Legislature for consideration and enactment. The revision, however, comes into force only when it has been adopted by a majority of those citizens who take part in the Referendum and also by a majority of the Cantons—the result of the popular vote in each Canton being considered as the vote of that Canton.

It is noteworthy that in the case of Imperial Germany legislation involving alterations in the constitution was considered as rejected if there were 14 votes in the Council of the Confederation against it, and, further, those provisions of the Constitution of the German Empire, by which certain rights were established for separate States of the Confederation in their relation to the community, could only be altered with the consent of the State of the Confederation entitled to those rights.

(*e*) The Methods of Referendum and General Election.

87. In many countries the Referendum is now used to effect constitutional amendments. A good deal can be said for this method as it secures the clear verdict of the people on the proposed alteration. We, however, realise that this method is hardly practicable in our case. It has been suggested that something approaching it can be devised by laying down that when a constitutional change has been agreed to by both Houses, the Lower House should be dissolved and a general election take place on the issue of the constitutional proposal. If after the election the new House passes the proposal again by the requisite

majority and the Upper House also agrees to it, it should, *ipso facto*, become part of the Constitution. This latter method certainly deserves serious consideration and may be adopted for certain classes of amendments, but we cannot recommend its wholesale application to every manner of amendment.

Difficulties in the Suggestion of a Precise Method.

88. In the present state of our political development we are confronted with a number of difficulties when considering the amendment of any Constitution which may be given to us. In the first place, the provincial Legislatures can amend only such provisions as relate entirely to the province concerned, and do not encroach on the domain of the Central Government or interfere with other provinces. Obviously, a province cannot be given the power to alter those provisions which are concerned with its relationship with the Central Government. It is extremely difficult to separate matters of purely provincial concern from those which affect its relationship with the Central Government.

In the next place, we do not know what form the Central Government is going to take and to what extent responsibility is going to be introduced in that field. In the case of many countries to which we have alluded, the Senate of the Central Government consists of representatives of the different component States and is intended to provide representation to these States as such. The composition of the Council of State of the Indian Legislature is on a different basis and so there is no institution in the Central Government through which the provinces can press their points of view.

A third difficulty in our way is that a comparatively small proportion of our population will be enfranchised even if our proposals for extending the existing franchise are accepted. Any constitutional changes made by the Provincial Legislature with or without recourse to a general election will, therefore, be the act of a small enfranchised minority. It is not inconceivable that the majority of the population which will not possess the vote for a considerable time to come, may be prejudiced by such changes in which it will not have any voice; though we think that if the electorate is widened in accordance with our recommendations it will comprise within its circle sufficiently large numbers of every class and community so as to obviate any chances of one class being able to deliberately injure the interests of another.

Our Proposals for General Amendments.

89. We would recommend that power to make such amendments to the Constitution as do not encroach on the domain of the Central Government should be vested in the Provincial Legislature, and, as already stated, we are inclined to favour

the method involving a general election on the issue of the change. There are certain specific classes of amendments to which this method cannot be wholly applied and we would now deal with some of these. Before, however, we do so we would like to make it quite clear that we are not endeavouring to make recommendations for every class of amendment which the Constitution may in time stand in need of. There are several unknown factors to be considered before exhaustive recommendations for every manner of constitutional amendment can be made. Our observations on this subject are, therefore, necessarily of a general nature and are meant only to serve as a basis for the study of a matter the importance of which cannot be overstated.

Ibid. re AMENDMENT OF SAFEGUARDS FOR MINORITIES.

90. We are not unmindful of the fears and misgivings of the minorities and certain class interests. In the case of a minority like the Muslims we have deliberately conceded them certain safeguards which may in time become unnecessary. The provisions of the Constitution should certainly provide the machinery by which these safeguards may at the choice of the minorities concerned be modified or entirely done away with. The simplest process to be followed in such cases appears to be that the proposed change should in the first instance be agreed to by three-fourths of the representatives of the community affected in the Provincial Legislature, and then passed by an absolute majority of each of the two Houses. We would recommend that a provision to this effect be incorporated in the Constitution. Dr. Shafa'at Ahmad Khan would like to add that an amendment of the safeguards for the minorities guaranteed in the Constitution should be effected only when, after being approved by the Legislature in the manner described above, it has been approved by a majority of the Muslim electors on a plebiscite.

Ibid. re GOVERNOR'S POWERS.

91. The question of safeguards vested in the Governor and also the question of the Governor's general powers do not appear to lend themselves to amendment by the Provincial Legislature. Authority to make any changes in the Governor's powers must remain with the Parliament, although it should be open to the Provincial Legislature to make recommendations in regard to them.

Ibid. re EXTENSION OF FRANCHISE AND READJUSTMENT OF CONSTITUENCIES.

92. The extension of franchise for the Provincial Legislature and the readjustment of constituencies might very well be left to the Provincial Legislature in the same way as by the Government of India Act of 1919 the Provincial Legislatures were

given the authority to remove sex disqualification in the case of voters and candidates for those Legislatures. In the matter of a change in the composition of the Legislature or where any change affects the interests of different classes whose special claims have been recognised by the Constitution, an amendment made by the Provincial Legislature should be subject to such approval as may be prescribed.

Ibid. re CLASSIFICATION OF SUBJECTS.

93. The question of altering the present division of subjects as between the Provincial and the Central Governments deserves to be carefully provided for. It is very likely that a revision of the classification now recommended will become necessary as provinces attain their full stature. We would recommend that the Central Government should not be empowered to take away from the provinces without their consent whatever subjects they have been entrusted with, so that the will of the provinces expressed through their Legislatures will be supreme in such matters. In the case, however, of subjects which are now being entrusted to the administration of the Central Government, decentralisation should only be possible if the request of the province is passed by a suitable majority of the Central Legislature.

DISCRIMINATORY LEGISLATION.

94. We consider it important that the Statute should contain definite provision that the Legislatures do not possess the power to make any law intended or calculated to discriminate against any commercial, industrial or agricultural interests established or to be established in British India by any person or association of persons, whether British subjects or not. Such a provision should not affect the power of the Indian Legislature to make any law of a discriminative character against the subjects of any country if any law has been passed by the Legislature of such country discriminating against British Indian subjects residing or carrying on business in that country or the power to impose any duty or duties for the protection of any trade, commerce or industry, agricultural or otherwise, in British India, The question might arise as to whether any law made by a Legislature was within the power of the Legislature or not. The decision of this question should be left to the highest tribunal competent to adjudicate on matters arising out of the Constitution. In case a question arises in any Court of British India subordinate to a Chartered High Court as to whether it was in the competence of the Legislature to make the law, such question shall be referred by such Court to the Chartered High Court of the province in which such Court is situated. The decision of the High Court will be subject to appeal either to the Supreme Court (if one is established in the country) or direct to the King in Council.

Fundamental Rights.

95. The Constitution must make provision for certain fundamental rights such as are found in the Constitution of other countries. It is not our intention to give here a comprehensive or full-worded catalogue of these rights. We would only indicate the general nature of rights which it will be necessary to incorporate in the Constitution.

(1) All citizens, including women, will be equal before the law and possess equal civic rights.

(2) Freedom of conscience and free profession and practice of religion will be, subject to public order or morality, guaranteed to every person. The State shall not either directly or indirectly give preference or impose any disability on any religion or those professing it.

(3) The right of free expression of opinion will be guaranteed for purposes not opposed to public order or morality. There will be no legislation of a discriminatory nature.

(4) There shall be no penal law, whether substantive or procedural, of a discriminatory nature.

(5) Every citizen shall have the right to a writ of *habeas corpus*.

(6) No person shall by reason of his religion or creed be prejudiced in any way in regard to public employment, office, power or honour and the exercise of any trade or calling.

(7) All citizens shall have an equal right of access to, and use of, public roads, wells and all other places of public resort.

(8) All rights in private property lawfully enjoyed at the time of the introduction of this Constitution shall be guaranteed.

(9) No person shall be deprived of his liberty nor shall his dwelling or property be entered, sequestered or confiscated, save in accordance with law.

(10) There will be no discrimination in the matter of admission into any educational institutions maintained or aided by the State and no person attending any school receiving State aid or other public money shall be compelled to attend the religious instructions that may be given in the school.

Conclusion.

96. The main features of our proposals may now be summed up. We have advocated the abolition of dyarchy which we are convinced cannot be allowed to continue any longer; it has served its purpose and its continuance cannot be justified on any grounds whatsoever. By reason of its illogicality and unwork-

ability even those who have the best of intentions find it impossible to work it any longer and it will be a matter for great disappointment to those who have loyally supported Government if they were to be saddled for a further period with the responsibility of working a system of Government which simply cannot work. Whilst recommending the abolition of dyarchy, we have not suggested a plunge into the unknown from where it will be impossible to retrieve our position. We have provided sufficient safeguards for all emergencies which will act as an automatic check on any irresponsibility which may evince itself in the initial stages. We are satisfied that we are not taking undue risks. The advance we are recommending is, in our opinion, the minimum that the province has established its claim to and even though it may not satisfy sceptics who are opposed to all progress, we consider, if there is to be any real extension of popular government in accordance with the avowed pledge of the British Parliament, the only possible direction is that indicated by us. We have no use for makeshifts and palliatives. We are not of those who consider there is no alternative between Mussolini and Lenin. We have no blind superstition for democracy which we know can be and has been carried to such extremes as to intensify and brutalise the struggle for existence of the working man and his hard-pressed family. We are not unaware that the unfettered evolution of the democratic theory, which started out with the great word of Liberty on its lips, has been definitely towards slavery, for have we not before us the example of Leninism which has destroyed free speech, trade union combination, and the sanctity of the home for the dumb and driven millions of Russia? But we are not prepared to concede that a rational form of democratic government cannot be devised with inherent safeguards against the dangers just pointed out. We have honestly and conscientiously endeavoured to evolve a scheme which would consist of what is safe and propitious in an intelligent democracy.

We have recommended the extension of franchise to an extent which would enable the toiling masses to feel that they have a share in the government of their province. We have made provision for the further gradual extension of this franchise, our scheme ensuring the right of vote to anyone who has acquired a certain degree of literacy.

We have conceded safeguards to the minorities so as to relieve their mind of the suspicion that the majority community is out to trample under foot their legitimate rights and aspirations. We consider it extremely unwise to put the minorities in a position in which they may feel distrustful of the intentions of their majority compatriots. We believe that the quickest way to bring about a *rapprochement* between the different communities is to guarantee them what they feel doubtful about.

We realise we may be seriously criticised by the more advanced section of our country-men for having agreed upon compromises which, as already admitted by us, are not by any means ideal; but we firmly believe no other course is feasible and practicable in the present state of the country. To take one example, we are by no means enamoured of separate electorates which we recognise are to be deprecated for more reasons than one, but if our Muslim fellow-countrymen are not prepared to give them up, is it really right of Hindus to coerce them to the contrary? We consider the problem can best be solved by leaving it to them to come round of their own free will.

We do not pretend that our proposals are perfect and complete in every detail, but we trust that we have given sufficient indication of the general outline of what we would desire the future government of the province to be.

We are glad of the opportunity afforded to us of putting forward our views and thereby serving our country in our own humble way.

With these words, we confidently commend our proposals to the favourable consideration of yourself and your learned colleagues in whose sense of justice and fair play we have every confidence. If these recommendations prove helpful to you and your colleagues we shall consider that our labours have not gone in vain.

J. P. SRIVASTAVA (*Chairman*).

HIDAYAT HUSAIN.

BISHESHWAR DAYAL SETH.

RAMA CHARANA.

*SHAFA'AT AHMAD KHAN.
30th June, 1929.

†KUSHAL PAL SINGH.
3rd July, 1929.

‡H. C. DESANGES.
28th May, 1929.

H. K. MATHUR
(*Secretary*).

3rd July, 1929.

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* Subject to an Explanatory Note.

† I agree to the Report except so far as it is inconsistent with the statement of the Ministry made before the Joint Free Conference at Lucknow.

KUSHAL PAL SINGH.

‡ NOTE.—Mr. H. C. Desanges left for England in the first week of May, and only the first draft of the Report could be made available to him. He cabled his approval of the Recommendations on May 28, 1929. The Report as in the final form has been despatched to him, and if he wishes to append any Note, it will be forwarded separately.

Secretary.

APPENDIX.

(A) List of Memoranda.

(*a*) India Office Memoranda—

(1) The Legislative Councils ... ... (E. I. O. 238).
(2) The System of Government in India ... ... (E. I. O. 239).
(3) The India Office in relation to the Civil Services in India... ... ... (E. I. O. 245).
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(126) Mr. H. S. Dhusya, President, Adi Hindu Sabha, United Provinces ... ...

(B) NAMES OF WITNESSES AND DEPUTATIONS WHO GAVE EVIDENCE IN THE UNITED PROVINCES.

(1) Sir Ivo Elliott, Bart., I.C.S., Secretary, Local Self-Government, United Provinces.
(2) Mr. B. D'O. Darley, C.I.E., I.S.E., Chief Engineer, Irrigation, United Provinces.
(3) Mr. E. A. H. Blunt, C.I.E., C.B.E., I.C.S., Finance Secretary, United Provinces.
(4) Mr. T. Sloan, I.C.S., Officer on Special Duty, United Provinces.
(5) Mr. F. F. Channer, I.C.S., Chief Conservator of Forests, United Provinces.
(6) Ladies' Deputation (the Maharani of Mandi, Mrs. Ahmad Shah, and Mrs. Chitambar).
(7) Mr. A. Monro, I.C.S., Collector, Cawnpore, and Mr. P. Mason, I.C.S., Superintendent, Dehra Dun.
(8) Deputation from the Muslims of the United Provinces (1. Khan Bahadur Masudul Hasan, Bar.-at-Law, M.L.C., 2. Mr. Zahur Ahmad, Bar.-at-Law, M.L.C., Secretary to the Committee, 3. Shaikh Abdulla, M.L.C.,Advocate, Treasurer, Muslim University, Aligarh, 4. Khan Bahadur Fasihuddin, B.A., M.L.C., Retired Collector, 5. Raja Ejaz Rasul Khan, C.S.I., of Jahangirabad, 6. Nawab Jamshed Ali Khan, M.B.E., M.L.C., 7, Munshi Ihtisham Ali, President, U. P. Muslim League, 8. Saiyid Habibullah, M.L.C., 9. Khan Bahadur Fazlurrahman, M.L.C., 10. Khan Bahadur Shah Badre Alam, M.L.C., 11. Mr. Abdul Bari,Bar.-at-Law, M.L.C., 12. Nawab Sajjad Ali Khan, M.L.C., 13. Khan Bahadur Saiyid Zafar Husain, Bar.-at-Law, M.L.C., 14. Khan Bahadur Ubaidurrahman Khan, Bar.-at-Law, M.L.C.)
(9) Deputation from the Agra Province Zamindars' Association (1. Major D. R. Ranjit Singh, O.B.E., [late I.M.S.]. 2. Khan Bahadur Mohammad Obaidurrahman Kahn Sahib, M.L.C., 3, Khan Bahadur Maulvi Fasihuddin Sahib, M.L.C., 4. Mir Ali Sajjad Sahib, 5. Raja Kalicharan Sahib Misra, M.L.C.).
(10) Deputation from the United Provinces Zamindars' Association, Muzaffarnagar (1. Lt. Nawab Mohammad Jamshed Ali Khan, M.B.E., M.L.C., President, 2. Major Kunwar Shamsher Bahadur Singh, 3. Khan Bahadur Fasihuddin, M.L.C., 4. Khan Bahadur Fazlurrahman Khan, M.L.C., 5. Shaikh Habibullah Sahib, M.L.C., 6. Rai Bahadur Chaudhri Sher Singh, 7. Rai Bahadur Sahu Ram Sarup, O.B.E., 8. Lala Hari Raj Sarup. M.A., LL.B., Hon. Sec., 9. Syed Ahmed Hasan).
(11) Representative Deputation of the Depressed and Backward Classes (1. Babu Rama Charana, M.L.C., 2. Babu Khem Chand, ex-M.L.C., President, All-India Shri Jatav Mahasabha, Agra, 3. Babu Nanak Chand Dhusya, President, Adi-Hindu Sabha, United Provinces, 4. Munshi Hari Tamta, Member, Distt. and Municipal Boards, Almora, 5. Bhagat Malluram, Member, Distt. Bd., Fatehpur, and representative of the All-India Adi-Hindu Mahasabha, Cawnpore, 6. Babu Sheo Dayal Chowrasia, B.Sc., LL.B., Chhotwapur, Lucknow, 7. Babu Ram Prasad, Ahir, Pleader, Oudh, 8. Babu Chet Ram, Member, Municipal Board, Allahabad, 9. Babu Raja Ram of Kahar Sudharak Sabha).

(12) Deputation from the British Indian Association (1. Raja Suraj Bakhsh Singh, O.B.E., President, 2. Raja Mohammad Ejazul Rasul Khan, C.S.I. Vice-President, 3. Rana Umanath Baksh Singh, 4. Lieut. Raja Bahadur Bishunnath Saran Singh, 5. Shaikh Mohammad Habibullah, O.B.E., 6. Raja Shankar Sahay of Maurawan, 7. Lala Prag Narayan of Maurawan, 8. Thakur Ram Partab Singh).

(13) Deputation from the Upper India Chamber of Commerce (1. Mr. A. L. Carnegie, President, 2. Mr. T. S. Gavin Jones, M.L.A., 3. Mr. E. M. Souter, M.L.C., 4. Mr. J. G. Ryan, M.B.E., Secretary).

(14) Kunwar Jagdish Prasad, C.I.E., O.B.E., I.C.S., Chief Secretary to Government, United Provinces.

(15) The Home and Finance Members, United Provinces. (The Hon'ble Captain Nawab Sir Muhammad Ahmad Sa'id Khan, K.C.I.E., M.B.E., and the Hon'ble Mr. G. B. Lambert, C.S.I., I.C.S.). *In camera.*

(16) The Ministers, United Provinces. (1) The Hon'ble Nawab Muhammad Yusuf, Bar.-at-Law, Minister for Local Self-Government, (2) the Hon'ble Maharaj Kumar Major Mahijit Singh, Minister for Agriculture, and (3) the Hon'ble Raja Bahadur Kushalpal Singh, Minister for Education.) *In camera.*

(C) OTHER RECORDS OF EVIDENCE THAT WERE SUPPLIED TO THE COMMITTEE.

(1) Deputation of Anglo-Indian and Domiciled European Association ... ... (Delhi -0-5).

(2) Deputation of Indian Christians ... ... (Delhi -0-6).

(3) Deputation of the Country League ... ... (Ben. -0-4).

(4) Deputation from the All-India Association of European Government Servants ... ... (Ben. -0-6).

(5) Deputation from the Associated Chambers of Commerce of India and Ceylon ... ... (Ben. -0-9 -0-10).

(6) Deputation from the European Association ... (Ben. -0-10).

(D) SOME NOTES.

(1) Note by the Chairman of the Indian Statutory Commission as Chairman of a Sub-Committee of Joint Free Conference, Lahore, on Executive and Judicial Powers, held on November 8, 1928.

(2) Note by the Chairman of the Indian Statutory Commission as Chairman of a Sub-Committee of Joint Free Conference, Lucknow, on the definition of the Depressed and Backward Classes held on December 6, 1928.

(3) Note on the Financial Situation by Mr. W. Layton, Financial Adviser to the Indian Statutory Commission.

(4) A short Summary of the Report of the Auxiliary Committee on Education (the Hartog Committee) made by Sir Phillip Hartog.

EXPLANATORY NOTE

BY

DR. SHAFA'AT AHMAD KHAN, LITT. D. (Trinity College, Dublin),
Member, U.P. Legislative Council, for the Indian Statutory Commission.

Reasons for the note.

I am writing this note chiefly because I feel that certain important points have not been fully discussed by the Committee. Such questions, for instance, as the rights of minorities, communal representation, and the position of Muslims in the services demanded a detailed and comprehensive survey. I have, therefore, appended notes on some of the points discussed by the Committee in Chapter I; while in Chapters II, III and IV, I have dealt with the problem of separate electorate, rights of minorities and services. In such a method repetition is unavoidable.

SHAFA'AT AHMAD KHAN.

25, Stanley Road,
Allahabad.
8th August, 1929.

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CHAPTER I.

SUGGESTIONS FOR THE CONSTITUTION OF THE PROVINCIAL GOVERNMENT.

(1) Fallacy of comparing India with Canada.

The point to which I would first refer is that analogies are constantly made between the condition of India and that of Canada. Such analogies are misleading for two reasons: (1) The first and the most important reason is the difference in the position of the minority and majority communities in Canada and India. In Canada the problem of minorities is very simple. The French possess an overwhelming majority in Quebec, while the English and other races have an overwhelming majority in Ontario. The question of the relation of minority and majority communities is consequently simplified by the concentration of each of the two communities in Quebec and Ontario respectively. Section 93 of the British North America Act, 1867, has solved the problem of minorities in Canada, mainly because the latter inhabit different provinces, and each province enjoys provincial autonomy. The minority in Quebec is in a majority in Ontario, and *vice versa*. The supremacy of the French race in Quebec is ensured by the form of the government conferred on Canada by the Act of 1867. The federal Government established under the Act has safeguarded the French minority by giving it provincial autonomy in the Quebec province. Anyone who knows the history of Canada in the years preceding its confederation in 1867, and has followed the debates of the period, will be forced to confess that the problem was solved only after the claims of the minorities had been equitably adjusted. It is important to note that the union of Canada has not brought about racial, religious, linguistic or cultural absorption of the two races. Professor G. M. Wrong, one of the greatest living authorities on Canadian history, has remarked: "The final solution," of the Canadian problem, "was to be found neither in isolation nor in complete union, but rather in both union and separation—union in the great affairs which touch trade, tariffs, public services, like the Post Office and the administration of justice; separation in respect to those things in which the two races had differing ideals, e.g., religion and education." The language question, as well as the education question, in Canada have produced acute controversies there. The following quotation from Professor J. Russel Smith's *North America* will show that the social and cultural outlook of the two races in different. "Four-fifths of the people of Ontario are British, while those of Quebec are four-fifths French, and the races are growing further apart, thus proving the error of the French publicist, De Tocqueville, who visited this region in 1830, and said that the French were 'the wreck of an old people lost in the flood of a new nation.' They have not been lost in the flood. The Government reports of the province of Quebec are published in French and in English. There are two sets of schools, French and English. The French language is deliberately purified of its Anglicism, and the community is becoming more and more French." Again, "The Quebec French are overcoming the Ontario English by force of numbers. When young Protestant MacGregor comes home from school, using French words, the farm is put up for sale, because of the fear of too much French association. Jacques Mercier buys it. Thus whole townships have passed from one race, one language, one religion to the other, and old Protestant chapels stand in ruins by the roadside. *The misfortune of this is that the two groups keep up the friction and the separateness, instead of mingling and rubbing along together as the members of the various churches do in England and the United States.*"

The history of the relation of the Boers with the English during the last 28 years, and the insistence of the Boers on the maintenance of their culture, language and education, shows that this problem is no less acute

in South Africa than in India. The controversy over the Afrikaans language is a vivid expression of the cultural differences of the two races. Here again any analogy between the two will be misleading. It is impossible to compare the problem of minorities in India with the problem of the relation of the two white races in South Africa without exposing ourselves to the charge of exaggeration. In India it is infinitely complex, and the breadth, volume and depth of the differences that cut right across the ideals of all Indian patriots for a United India are immeasurably greater.

(2) Comparison with other parts of the Empire.

There is also another difference which marks the Indian problem completely off from any problem with which the British Parliament has ever been faced. The nearest parallel to it is to be found in the relation of the Catholics to the Protestants in Ireland, though even in the latter the differences are not so great. Both in Canada and in Ireland there are not two religions, but one, and the differences are among the followers of the particular sects of the same religion. It has to be borne in mind that religion in Europe does not imply a different mode of life. In India religion is expressed in a distinctive mode of life, with the result that socially there is a deep gulf among the followers of different religions. There is no mingling of communities, races and creeds, as the followers of one religion cannot dine or inter-marry with those of the other. Religious differences would have been softened, mellowed, and practically eradicated, had there been free, unrestrained and frank intercourse among communities, classes, races and creeds of India. Unfortunately, custom, rules of caste, usage and religious tenets do not allow this. Orthodoxy has, no doubt, diminished, but it will be true to say that with the exception of a handful of persons concentrated in the urban areas, the bulk of the members of the various communities do not mix much in private life. The Hindus and Muhammadans cannot inter-dine or inter-marry. This lack of social solidarity makes it extremely difficult for members of various communities to arrive at a point which will enable them ultimately to merge themselves socially, and to evolve a new culture with distinctive features of its own. This is another important factor which differentiates the problem of minority in India from that presented by any part of the British Empire. I hope and believe that in the solution of this problem the British Parliament will not be misled by false analogies instituted between India and other parts of the British Empire.

(3) Lack of Propaganda among Indian Muslims—Its Effect.

There is another very serious disadvantage under which my community labours at the present time. It is the lack of any effective organisation which will make its political programme known to the British elector. While the majority community possesses extremely able, influential and popular political associations in every province throughout British India, while it is organised with a definite purpose and possesses experienced and influential workers, my community is handicapped by the lack of financial resources, public workers, and experienced men. The chief reason for this is that it is only lately that the Muhammadans have begun to take an active interest in politics. With the problem of propaganda is intimately connected the problem of publicity. In this, too, also the Indian Muslims are deficient. While the majority community possesses many influential daily papers in English in every province, the Muhammadan community is destitute of a single powerful daily paper in English. New Zealand, with a population of about a million inhabitants, boasts of 63 daily papers; my community, with a population of 68 millions, has not got a single influential daily in English. The result is that Muslim views are not given publicity, and the Muslim case sometimes goes by default. Propaganda is the

soul of modern politics. My community has not yet realised its importance. Before I deal with the constitution proper, I may mention that I have dealt separately with some of the problems which are incidentally referred to in this chapter in separate chapters. They are numbered chapters II to IV, and form an integral part of this note. I thought it necessary to deal with the important problems connected with Services, Separate Electorate and the Rights of Minorities separately.

(4) THE CABINET. THE GOVERNOR AND THE CABINET. NEED FOR STABLE MINISTRIES.

I would like to amplify the points dealt with in paragraph 64 of the Committee's report. It should be clearly understood that it is impossible to transplant every feature of this system to India. The basic principle of the parliamentary system is the responsibility of the Executive to the Legislature. With this principle I am in general agreement. The British Parliament is committed to it, and the English Parliament must be the model for all the Parliaments of the Empire. I need not go into the question whether Lord Curzon, when he coined the expression "responsible government in India" (*Life of Lord Curzon*, by Ronaldshay, volume III, pages 167-176) was conscious of the implications of this phrase when he used it in 1917, nor need I analyse it. I use the words "responsible government" in the sense in which it was used in the Dominions before the Imperial Conference of 1926. Using it in this sense, I have no hesitation in stating that the parliamentary system which is in operation in England and other countries must be modified before it can be applied to India. The logical result of the consistent application of the principle of parliamentary system to the varied, complex and complicated condition of Indian provinces would be that the majority would rule the minority. My own experience and the experience of all persons in India is that unless safeguards are provided for the representation of the Muslim minority in every Cabinet, there is a probability of the Muslims being completely unrepresented in the administration. I may remind you that India is not the only country which is faced by this problem. In Canada, before the British North America Act, 1867, the Cabinet consisted of two wings, the French and the English. Each wing had its own leader, though, of course, there was one Prime Minister, whom the leader of the French wing of the Cabinet generally followed. At the present time the principle of representation of each part of Canada has been recognised as valid, and is consistently followed. Thus the first ministry of 13 members in 1867 comprised five from Ontario, four from Quebec, one representing the English-speaking population, and two each from Nova Scotia and New Brunswick. The problem in Canada is now more difficult, for the increase in the number of provinces renders it less easy to satisfy claims; what is essential is that Ontario, Quebec, the Maritime Provinces, and the West should all be made to feel that they are not being pushed over. In Switzerland precisely the same practice is observed. I may be allowed to quote the following from Lord Bryce's *Modern Democracies*: "Though in nearly every canton of Switzerland one or more representatives of the minority or minorities find their way on to the Executive Council, despite the fact that the vote is taken by a 'general ticket' over the whole canton, still, in order to ensure the representation of minorities, several cantons have adopted systems of proportional representation, for everybody feels that each important section should have its spokesman and its share of office." As regards the Federal Executive Council, Bryce informs us, "custom prescribes that one councillor shall always come from Bern, and another from Zurich; one is usually chosen from the important French-speaking centre from Vaud; one is again, by custom, taken

from a Roman Catholic canton, and very often one from the Italian-speaking Ticino. In this way, all races and religions of Switzerland are represented." The view that each important section should have its spokesman and its share of office is expressly recognised in the constitutions of Bern and Aargau. In Czechoslovakia, the German minority is effectively represented in the Cabinet. The views of the founder of the Czechoslovakian Republic, President T. G. Masaryk, on this point are significant. He says in *The Making of the State*, "At the Geneva Conference between the delegates of the Prague National Committee a proposal was adopted without discussion as something self-evident, that a German Minister should be included in the Government. *In a democracy it is obviously the right of every party to share in the administration of the State, as long as it recognises the policy of the State, and the State itself. Nay, it is its duty to share it.*" In Roumania, after a systematic repression of the Transylvanian minority, and the complete failure of the policy of repression, the representatives of the Transylvanians were invited to join, and have actually joined, the Roumanian Cabinet. In Jugo-Slavia, the working of the parliamentary machinery revealed so many glaring defects, and the Croatian minority was subjected to ill-treatment to such an extent, that the constitution was suspended. India ought to take a lesson from these examples. I deem the representation of Muslims in the Cabinet to be absolutely necessary to the success of any constitution. The amount of their representation should in no case be less than 33 per cent.

I am of the opinion that the pay of the Ministers should be fixed by an Act of the local Legislature. The total number of Ministers should not exceed seven in any province. This is provided for by Act No. 3180 (1921) of Victoria, Act No. 1492 of South Australia, and the Civil List Act No. 31 of New Zealand, which fix the pay of the Prime Minister as well as of other Ministers. Reference may also be made to Ministers and Secretaries' Act No. 16 (1924) of the Irish Free State. The Central Provinces Legislative Council reduced the salary of the Ministers to the magnificent sum of Rs.2 per year; in the United Provinces Legislative Council a motion was made on March 19, 1929, by a non-official member to reduce the salary of the Ministers to Rs.1,000 a month. The pay of the Ministers in these provinces has varied. The Ministers appointed in 1920 received the same pay as that received by Executive Councillors. The landlord Ministry which succeeded them voluntarily accepted the pay of Rs.3,000 a month. I am of the opinion that there should be statutory provision for the pay of all Ministers. The Chief Minister should receive Rs.4,000 a month, while other Ministers should be paid Rs.3,500 a month. The fixation of the pay of the Ministers by a statute of the local Legislature will not prevent a motion being brought against them. But it will be a token motion, say of Re.1 or more to express the want of confidence in the Ministry. I am of the opinion that the maximum number of Ministers should also be fixed by law. Unless this is done, there is a great danger of an enormous increase in the number of Ministers in each province. This will produce extravagance, corruption, jobbery, and log-rolling. Ministers will multiply, new posts will be created to pacify partisans, and the province will be saddled with a species of Byzantine officialdom.

Constituencies.

I am strongly of the opinion that the Parliament should make provision for the appointment of a Committee for the purpose of reorganising the constituencies for the local and central Legislatures. In the case of the Union of South Africa, a Commission was appointed after the passage of the Act of 1909, while in the case of the Government of India Act of 1919, the recommendations of the Franchise Committee were considered by the Joint Select Committee of the British

Parliament before the passing of the Bill into law. I recommend that the same procedure should be followed, and a Joint Select Committee should consider the report of the proposed Committee before the passing of the Government of India Bill into law.

The Committee appointed for the purpose should be directed to give due consideration in their recommendations for reorganisation of constituencies to the following factors:—

(*a*) community or diversity of interests;
(*b*) means of communications;
(*c*) physical features;
(*d*) existing electoral boundaries;
(*e*) sparsity or density of population.

(5) The Voters in the United Provinces.

The Franchise Committee estimated that the general qualifications suggested by them would yield an electorate of 1,483,300 out of a population of male adults over 20 years of age numbering 13,345,757, of whom 1,186,973 were returned as literate. The number of electors to the pre-reform Legislative Council was only 2,774, of whom 2,306 were Muhammadans and landholders, who returned six members by direct election, and the remaining 468 were members of district and municipal boards, who returned 13.

In order that such a system may be effective, in order that the Legislature should not merely nominally, but also actually, represent the public view, it is essential that the members of the Legislature should be kept in frequent and constant touch with their constituencies. Only then can a Legislature be said to mirror public opinion. This is not possible if members are prevented from direct, personal, intimate and constant intercourse with their electors, owing to the great and, sometimes, insuperable barrier of distance. The Legislature in that case will be cut off from the stream of popular thought and popular feeling, and will be likely to reflect opinions and express a policy which may be in violent conflict with popular needs and national aspiration. I suggest the following principles for the reorganisation of constituencies:—

(1) they should be as small in size as is consistent with the number of members for the Legislative Council given below;

(2) they should be homogeneous, and local tradition, local feeling and local needs should be carefully considered before two or three districts are grouped into a constituency;

(3) the number of electors should be, as far as possible, uniform. This is, I admit, not always possible in the case of Muslim constituencies, as Muslim population in the hilly districts and in some of the eastern districts of these provinces is very sparse. Every effort should, however, be made to apply these principles.

(6) The Landlords.

I would like to emphasise the need for the representation of landlords in the Legislature. I am strongly of the opinion that landlords should be given increased representation in the new constitution. I recommend that of these, eight should be elected by the British Indian Association, two by the Muzaffarnagar Association, and six by the United Provinces Zemindars' Association. I believe this number to be both reasonable and necessary, as the landlords have played, and I am convinced they will continue to play, a very important part in the public economy of these provinces. The landed interest imparts an element of stability and steadiness to the constitution. The landlords of these provinces have been foremost in all the movements for the educational, social and economic development of these provinces. Though the number of landlords in the Council since 1920 has not been small,

and several have been elected from general constituencies, a comparison of their total strength in the Councils, for the years 1921-1923, 1924-1926 and 1927-1928, will show at a glance that their representation has steadily diminished. There is no guarantee that any zemindar will be returned in future from general constituencies, as a very serious situation may develop in the countryside among the rural masses at any time. An agrarian movement may sweep like a whirlwind among the ignorant and illiterate peasantry, and determined efforts might be made for the abolition of private property and the destruction of the zemindari system. That such attempts have been made by certain persons, that the ignorant peasants are sometimes infected with communist doctrines, and that the latter are propagated in many skilful ways, are known to many persons in these provinces. It is true that there is no immediate danger of the rural population being swept off its feet by revolutionary doctrines. It cannot, however, be denied that the danger is by no means imaginary. The landlords will be reduced then to a position of utter helplessness, and a Legislature, packed with excited, ignorant and interested tenants, may pass a series of laws with the object, among others, of destroying the entire fabric of the zemindari system of these provinces. The landlords are willing, nay eager, to work for the well-being of their country and for its constitutional advance; and do not view with dismay the coming changes. On the contrary, they welcome them. Before, however, they agree to them they want an assurance that their interests will be safeguarded. I concur in this view and recommend, as suggested above, that landlords should be given special representation to the extent of 16 persons in the Lower Chamber.

(7) The powers of the Governor.

I would like to amplify paragraphs 60-62 of the report as it is a very important subject. The Governor in the new constitution will play a part which will materially differ, in some respects, from that occupied by him in the past. Some of the powers exercised by him since the Reforms will be used by his Ministers, and as we gain experience, and develop the tradition and discipline of parliamentary governments, he will refrain from interfering in those matters on which the opinion of the country as voiced in the Legislature is unambiguously expressed. He will, in time, occupy a position which the Governors of self-governing colonies occupy. At the present time, and in the immediate future, the Governor cannot, and should not be, a figure-head, who is useful only for ornamental purposes, and active only when Imperial interests are directly involved. Such a conception of the duties and functions of the Governor is bound seriously to affect the working of the new constitution. As I have pointed out in Chapter IV, administration in India occupies, and has occupied, a unique place, and government of these provinces cannot be carried on by a combination of *a priori* ethical principles and facile opportunism.

The Governor will normally act on the advice of his Ministers, who will be responsible to the Legislature for the policy of their respective departments. But he must possess a reserve of power in emergencies. This power should be real, and not nominal. It is possible that a young Governor, who may have his career to make in England, may refuse to take action in a matter which is likely to arouse the hostile comments of a vociferous majority, or the passionate criticisim of an interested, narrow, or prejudiced oligarchy. It is no less true that the personality of a Governor will exercise in future, as it has exercised in the past, a decisive influence on the working of the Government If he is weak, vacillating and flabby; if he wants a quiet time, and is inclined to take the line of the least resistance, he will be under constant pressure to play the opportunist, not for place alone, but from motives of safety and glory. In order to retain his popularity, he will be under the necessity of

making sensational "profits" and "quick returns." The slow statesmanship which is necessary for the head of a province will be replaced by a spectacular Byzantism, and the whole administration will be in danger of sudden break-up and explosion like the crust of lava on the crater of a volcano. I do not want the Governor to be a dictator or an autocrat. All that my statement implies is that there must be a co-ordinating and unifying principle in the province, which will work promptly and unambiguously on all critical and emergent occasions. Such a principle is supplied by the Governor. I am strongly of the opinion that the Governor should be invested with adequate powers, which he should exercise in all cases where the safety and tranquillity of the province as a whole are concerned. These important provisions should be put out of the reach of temporary impulses, springing from passion or caprice, and should be regarded as the permanent expression of calm thought and deliberate purpose. These observations are not intended to cast any reflection, or to deprecate the growth of usages and conventions of the constitution, which acquire as great a force as are possessed by the constitution itself. Such conventions and usages are of the essence of parliamentary government; but in India they have not yet been properly developed, and it would be a fatal mistake to deprive the Governor of a power which will maintain our constitutional system with its singular Newtonian equipoise of parts.

I will now amplify these remarks by detailing the powers with which the Governor of this province should be invested: He will, in the first place, use the powers which the Dominion Governors exercise at the present time. The Governor there performs a dual function: (*a*) He is, in the first place, a servant of the Imperial Government, (*b*) in the second place, he is the head of the province. With regard to the latter, the position of the Governor to his Ministers is governed essentially by constitutional practice, rather than by positive law.

Authoritative usage requires that he shall act on the advice of his Ministers. Though he may not act without their advice, he can always refuse to act, and his refusal, whatever its constitutional result, is strictly legal. He can dismiss a Minister who insists on acting, even in his own sphere of authority, contrary to the wishes of the Governor. A number of cases of actual removal of individual Ministers in self-governing colonies are on record. That a Governor has a right to dismiss his Ministers is equally certain. They hold during pleasure, and even in the British Dominions the wording of the Instrument of Instructions makes it clear that the right of appointing Ministers is vested in him alone. But if Ministers insist on resignation, then the Governor must be prepared, in any case, if he is not acting under Imperial instructions, to find other Ministers who will accept the responsibility for his action in driving the outgoing Ministers to resignation. The Governor's powers with regard to dissolution should be clear and definite. He should have the right to summon and dissolve the Council at any time that he may deem fit.

(8) The Governor as a servant of the Imperial Government.

In the British Dominions, the Governor is not merely the head of the State, and is required not merely to act according to the law, but also subject, of course, to the law, to follow the instructions of the Crown. This appears in the Letters Patent, as well as in his Commission. His duty as the head of a responsible government in the Dominion must be reconciled to his duty as a servant of the Imperial Government. A Governor is thus limited in action, even if Ministers advise it, by certain definite considerations. He must obey his instructions as to the exercise of prerogative of mercy, the disallowance or reservation of Bills, and any other matters on which he may receive orders from the Crown. He is entitled to receive aid from his Ministers in

obeying these instructions. Normally the ministry should accept the constitutional rule that, if a Governor acts on Imperial instructions, its duty is to acquiesce in his action and merely concentrate on seeking to have the instructions reversed. Again, a considerable number of duties are imposed on the Governors under Imperial Acts. In these matters the Governors can legally act on their own authority. In some cases, however, powers are given to a Governor quite distinct from those he has in his former capacity, in order that he may exercise them without being under ministerial control, in such a manner as to promote harmony between the interests of the Dominions and other matters for which he is responsible.

This is, very briefly, the position of the Governor in self-governing Dominions. It is clear that the Governor of an Indian Province must possess all the powers which the Dominion Governors enjoy at the present day. It is, however, no less clear that a Governor of these provinces needs greater powers, as he shoulders heavier responsibilities than his compeer in Canada. At present the Governor may require action to be taken, under Section 52(3) of the Government of India Act of 1919, otherwise than in accordance with the advice of his Ministers, if he sees sufficient cause to dissent from their opinion. Further, his Instrument of Instructions lays upon him certain special responsibilities, the discharge of which may require him to dissent from his Ministers. Article 7 of the Instrument of Instructions specifies the matters in regard to which the Governor would be empowered to intervene. They are:

(1) maintenance of the safety and tranquillity of the province, and the prevention of religious or racial conflicts;

(2) the advancement and welfare of backward classes;

(3) impartial treatment and protection of the diverse interests of, or arising from, race, religion, social conditions, wealth or any other circumstances;

(4) protection of the public services;

(5) prevention of monopolies or special privileges against matters affecting commercial or industrial interests.

In the sphere of legislation, the Governor is empowered under Section 72 (*e*) (I) to certify that the passage of a Bill is essential for the discharge of his responsibility for a reserved subject and thereupon the Bill becomes an Act under the signature of the Governor. I would modify this section allowing the Governor to certify the passage of a Bill, if he thinks it essential to the safety and tranquillity or financial stability of the province. I give below those sections dealing with the power of the Governor, which, in my opinion, should be maintained in the future constitution of India:—Sections 49 (1); 72 (A) (1); 72 (B) (*a*); 72 (B) (*b*); 72 (B) (*c*); 72 (B) (2); 72 (D) (2) (6); 72 (D) (2) (*c*); 72 (D) (4); 72 (E) (1); 81, and 81 (A). Provision should be made by statute empowering the Governor to perform the duties included in provisions (1) to (5) detailed above, which are taken from article 7 of Governor's Instrument of Instructions. The following provision should be added:—"The Governor should be empowered to intervene for the maintenance of financial stability and adherence to canons of financial propriety." Item (3) dealing with the impartial treatment and protection of diverse interests, mentioned above, should also include a power to secure adequate representation of various communities in the administrative services. The Governor should also be empowered to take over the administration of the province in the event of a deadlock arising. As regards his powers to certify legislation, the Governor should have the power to certify legislation, similar to that as at present vested in him under Section 72 (E) of the Government of India Act, but extending to all subjects, provided the legislation is essential for the safety, tranquillity or financial stability of the province. The Governor would also retain his existing power of giving or refusing assent to Provincial Acts. The Governor-General

must also have some power of control over Provincial legislation on the lines of the power conferred by Section 80A of the Government of India Act, but such control would be limited as narrowly as possible. Under the existing constitution, the exercise of the powers of superintendence, direction and control vested in the Secretary of State in Council and the Government of India has, so far as transferred subjects are concerned, been limited by statutory rules to the following purposes:—

(1) to safeguard the administration of central subjects;
(2) to decide questions arising between two Provinces;
(3) to safeguard Imperial interests;
(4) to determine inter-Imperial questions;
(5) (*a*) to deal with questions relating to the High Commissioner for India;
(*b*) to control borrowing by Local Government;
(*c*) to control the Civil Services in India; and
(*d*) to secure the exercise and performance of powers and duties under statutory rules.

Of these purposes, Nos. (1) to (5) (*b*) result from the nature of the constitution, and the powers of control connected with them are such as are inherent in the position of a subordinate member of a federal constitution. They would be retained, and as all subjects would be transferred, would extend to all subjects. Control in matters affecting the all-India services must be retained so long as any such services are retained.

In the financial sphere the control of the Secretary of State in Council over expenditure would be strictly limited. The Government of India would also retain some control over provincial borrowing and taxation. The principle of votable and non-votable expenditure would be embodied in the statute to the extent of creating certain permanent changes on the lines of the consolidated fund in England. These would include the contribution to the Central Government interest and sinking fund charges, expenditure prescribed by or under any law, and the salaries, pensions and allowances of certain persons, including salaries, etc., of persons holding posts borne on the cadre of the all-India services at the time of the introduction of the Act. The Act would contain specific provisions requiring the disbursement of charges on the consolidated fund, and would give the Governor power to certify expenditure necessary for the safety or tranquillity of the province or for the carrying on of any department. In addition to these powers, the Governor as agent of the British Parliament should be entrusted with the duty, in my opinion the supreme duty, of seeing that the safeguards for minorities are faithfully and effectively carried out. As is explained in the chapter dealing with safeguards, the Governor of the Province will act merely as an agent of the British Parliament as far as the protection of minorities is concerned. The principles of these safeguards will be enunciated in a statute of the Imperial Parliament. The proper authority in matters relating to India for the execution of the statutory safeguards is the Secretary of State for India. He is the Minister in charge of Indian affairs and is responsible to the British Parliament for Indian administration. He will, therefore, be primarily responsible for their due fulfilment. It is clear, however, that he cannot, at a distance of 6,000 miles, execute such a provision without the employment of a special agency for the purpose. Such an agency is quite impracticable under the existing circumstances. It would be inexpedient and expensive, and might produce friction between the authorities in India and the Secretary of State.

I therefore think that the Secretary of State should be empowered to delegate the power of making rules to the Governor-General for the due application of the principles of safeguards embodied in a parliamentary statute. The Governor-General will then frame rules, and may call upon every Governor to carry out these rules in each province. It will be, therefore, one of the most important functions of the Governor to see

that the rules framed for the execution of these safeguards are duly observed. I may add that, if necessary, the Secretary of State may himself frame such rules after making such inquiries as he may deem necessary and may ask the Government of India to enforce them. The Government of India may in their turn use the agency of the Local Government for their due execution.

Another question of very great importance is the manner in which the rights and duties of the Governor should be defined. Should they be incorporated in an Instrument of Instructions, or should they be embodied in the statute itself? I attach very great importance to this point. The history of some of the self-governing Colonies shows that the Instruments of Instructions to Governors have formed the subject of acute controversy on some notable occasions. I need only refer to the views of Mr. Higginbotham and of Mr. E. Blake, analysed in Chapter III of Keith's *Responsible Government in the Dominions* (Edition 1928). I am strongly of the opinion that the powers and duties of the Governor, detailed above, should be embodied in a statute.

The Instrument of Instructions does not possess any sanction, and is, for all practical purposes, useless. The Governor will be in a most delicate position, if he is called upon to take action on a matter in respect of which his powers are vague and undefined. On the other hand, a statutory provision to this effect will greatly strengthen his hands; it will be a duty imposed upon him by law which a weak or vacillating Governor will be compelled to discharge. If, on the other hand, vague, barren, ethereal generalisations, which may be mere platitudes, are sandwiched in the Instrument of Instructions, the Governor would be hampered at every turn. He may indeed be exposed to the attack which Mr. Higginbotham, Chief Justice of Victoria, launched against Letters Patent and Instructions to Governors. He argued that the creation of responsible government meant "the vesting in the representative of the Crown upon his appointment, and by virtue of the statute, of all powers and prerogatives of the Crown necessary in all the conduct of local affairs and the administration of law." He contended that these prerogatives and powers are no longer vested in the Sovereign but transferred to the Governor, and there was no power in the Crown by Letters Patent apart from the statute to confer on the Governor any powers in regard to internal government. The powers which a Governor derived from the statute were, Mr. Higginbotham contended, only exercisable by him on the advice of Ministers precisely as in the United Kingdom, and no outside interference was permissible. The barrenness of the Instrument of Instructions was, indeed, made clear by a reply given by Sir William Marris, the then Governor of the United Provinces, to a deputation of the United Provinces Muslims which waited upon him at Agra in August, 1924. The deputation asked him to protect the education of Muslims and made a request for an increase in the grants-in-aid to Muslim institutions, etc. The reply of Sir William Marris showed how ineffective the Instrument of Instruction is, so far as the protection of minorities is concerned: "I note that you refer to a certain clause in the Governor's Instrument of Instructions; but I would not have it interpreted as constraining the Governor to adopt your proposals. *The Instrument has to be read as a whole, and in the light of the existing constitution, by which education is a transferred subject, and its administration is in the long run controlled by the Legislature. It is for you to do what you can to get your views accepted by discussion, argument, and advocacy in the Legislature.*" If this is so, then paragraph 7 of the Instrument of Instructions, which was designed to safeguard the interests of minorities and other interests is worthless. It may be said in reply that the law of Principal and Agent applies to the Instrument of Instructions to Governors, and as the Crown, who is the Principal in this case, and delegates his power to his agent, the Governor, undoubtedly possesses large and substantial powers, his agent, the Governor, will exercise them on his behalf, and

in his name. It is consequently argued that as the Instrument of Instructions is issued by the Crown to the Governor, the latter is invested by the Crown with all his powers for the purpose of enforcing the provisions of the Instrument. To this it may be replied that these powers are of two kinds:—Those which he exercises as a servant of the Imperial Government, and those which he exercises as head of the province. There is a vital distinction between the two. For when the Governor acts as a representative of the Crown in the internal affairs of the province, most of the powers, privileges and prerogatives of the Crown are generally exercised on the advice of Ministers. Indeed, it may be said that just as the English Cabinet derives most of the powers which it now exercises from the prerogative of the Crown, in the same way the Cabinets in the Dominions insist on the prerogative of the Crown being exercised by the Governor on the advice of his Ministers. Therefore, the analogy between the Crown and the Governor on the one side, and the Principal and the Agent on the other, is fallacious. His Ministers may, and sometimes do, take a strong exception to his acting on the Instrument of Instructions on the ground that the latter infringe the deliberate and well-considered policy of responsible government. The law courts may also question the legality of his action, and a very serious situation might be created. The Governor will then be placed in a very delicate situation. For these reasons, I am of the opinion that the powers of the Governor should be defined in the statute. The Instrument of Instructions will, of course, be issued to all Governors, but it will be concerned mainly with their duties as servants of the Imperial Government, and other matters of routine. It will not impose obligations on the Governor (as the Instrument of Instructions does now) which they cannot consistently and legally discharge without infringing the statute itself. It may be replied that such an event has not occurred, and cannot occur. My reply is that the draft of the Instrument of Instructions, originally framed by the Franchise Committee, contained a clause in which the Governors were expected to protect Muslim education. This clause was whittled down into paragraph 7 of the Instrument of Instructions which is now in operation, while the paragraph itself was explained away as it could not be enforced apart from the general policy underlying the Act of 1920. If this is the position, the sooner the rights and duties of Governors on the question of protection of minorities and other interests are embodied in a statute, the better it would be for the safety of the administration, and for the tranquillity and contentment of minorities of religion, race and interests in India.

This point was raised by me in connection with the evidence of Mr. T. Sloan, I.C.S., Special Reforms Officer, United Provinces, before the Joint Free Conference at Lucknow, on 4th December, 1928.

On that occasion, the Chairman of the Indian Statutory Commission, Right Honourable Sir John Simon, remarked as follows:—"If you want some effective restriction against what I would call discriminatory legislation (may be for Muslims, may be for depressed classes, or for any other community) I should have thought that it was difficult to get a water-tight scheme by simply putting these directions into the Instrument of Instructions to the Governor, who would never be able to restrain the Legislature from passing such legislation. Therefore, if you want to restrain certain kinds of discriminatory legislation, you have, I think, to consider other means . . . But I do not myself think that the Instrument of Instructions to Governors would be found in itself to be an absolutely certain protection, because it is difficult to reconcile the claims of the Legislature to carry through its policy, with the duty of the Governor to do all he can to protect minorities."

Dr. Shafa'at Ahmad Khan: "My point was this, that the Instrument of Instructions will be practically useless unless and until the relevant section is embodied in a statute."

Chairman (*Right Honourable Sir John Simon*): "I follow your point. However carefully the Governor exercises his influence, and however faithfully he endeavours to carry out his instructions, still your view is that the citizen is not really assured of having any protection."

The extract quoted above is reproduced from the proceedings of the Joint Free Conference. This makes it perfectly clear that the Instrument of Instructions, by itself to the Governor does not, and cannot, protect minorities effectively.

(9) The Amendment of the Constitution.

A very important question connected with the new constitution is that of the amendment of the constitution. Should the new constitution of India contain some provision for its automatic amendment without further reference to the British Parliament? The Imperial Parliament, as Sir John Marriott points out, "affords the classical example of an omnipotent Legislature. Legally, there are no limits to its competence; there is no tax which it cannot impose; no law which it cannot enact, repeal or amend; no act of the administration which it cannot investigate, and, if need be, censure. Its functions are therefore at once constituent and legislative, and it is charged with the duty of criticism and control of the Executive. Not only can it make laws without reference to the electorate, whence in a political sense it derives its powers, but it can profoundly modify, and indeed revolutionise the constitution itself." Some limits have, however, been invariably imposed upon the legal competence and activity of the Legislatures of those countries which possess a written constitution. Such limitations are in some cases imposed by an Instrument or constitutional code, in others by organic laws, in some by a rigid adherence to the doctrine of separation of powers, by assigning precise functions to the Executive and to the Judiciary, in others by reserving certain powers and functions to the electorate. The new constitutions of modern Europe have been very careful to provide, in some cases with meticulous precision, against any alteration of the constitution itself by the ordinary operation of the legislative machinery. For the amendment of the Federal constitution of the United States, changes may be proposed at the instance of two-thirds of the members of both Houses of Congress, or by two-thirds of the State Legislatures, but they cannot become law until they have been ratified either by at least three-fourths of the State Legislatures, or by an equal number of conventions specially summoned for the purpose in each station. Even more elaborate are the laws which govern the process of constitutional amendment in the Helvetic Republic. This principle has been applied to the British Dominions and the Colonial Laws Validity Act, Section 5 of 1865, provides that "every representative of Legislature shall in respect to the Colony under its jurisdiction have, and be deemed at all times to have had, full power to make laws respecting the constitution, powers and procedure of such Legislature, provided that such laws shall have been passed in such manner and form as may from time to time be recognised by any Act of Parliament, Letters Patent, Orders in Council or colonial law for the time being in force in the said Colony." It is necessary to point out that this power is confined to representative Legislatures; in other cases it must be derived from express authorisation. This right has been exercised by many self-governing Dominions, and several States in Australia have made regulations for the purpose. New South Wales insisted on a two-third majority on the second and the third reading of a Bill for the alteration of the constitution of the Upper House, and a two-third majority in the Assembly for a change in it, but having omitted to safeguard the clauses enacting the rule, they were repealed in 1857. Similar requirements as to absolute majorities on the two readings are contained in the constitution of Victoria. The Act of 1857 (20 and 21 Victoria, c. 53) relating to New Zealand expressly conferred on the general Assembly the right to alter save certain specified

provisions of the original Act. The Irish Free State constitution can be amended by the Irish Parliament, subject always to the terms of the Treaty of 1921 with the United Kingdom. No such amendment, however, passed by the two Houses after the expiration of eight years from 6th December of 1922 shall become law unless after passing the two Houses, or being deemed under the constitution to have passed them both, it is submitted to a referendum and a majority of the voters on the register, or a two-thirds majority of the votes recorded are cast in favour of the amendment. Under the Australian Commonwealth Act of 1900, every proposed amendment of the constitution must be passed by both Houses of the Federal Legislature, or it must be passed by one of the two Houses twice with an interval of not less than three months. After this a referendum must be taken on it, and it must be approved by a majority of voters in the Commonwealth as a whole and by a majority of votes in each State. A very important proviso is added that the representation of any State cannot be altered without its own assent. This is of special significance to India, as the principle may be extended not only to provinces, but also to the representation of various interests and communities, and it may be laid down that no alteration affecting any community or any special interest, such as the landed interest, shall be effective until and unless that community or interest gives up the right it enjoys under the constitution of its own accord in any manner that may be specified in the Act. The Union of South Africa Act, 1909, makes a definite provision for the alteration of the constitution. Section 152 declares that the Parliament may by law repeal or alter any of the provisions of the Act, provided that no provision thereof for the operation of which a definite time is prescribed shall during such periods be repealed or altered. The British North America Act (1867) does not, however, provide for the alteration of the constitution. This is due mainly to the fact that the French minority inhabiting mainly the province of Quebec is suspicious of any change which might disturb the proportion of French electors to other electors, and may thus reduce the amount of its representation in the Federal Legislatures. This proportion is laid down in the constitution. Section 51 provides that:—

(1) Quebec shall have the fixed number of 65 members.

(2) There shall be assigned to each of the other provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number 65 bears to the number of the population of Quebec (so ascertained).

These provisions show clearly that the French minority in Canada which is concentrated in the Quebec provinces has been secured effective representation in the Quebec Legislature, which it dominates, as well as in the Federal Legislature in which it exercises effective influence. It is consequently averse to any provision in the constitution whereby its position may be adversely affected.

I am in favour of a provision in the statute giving power to Indian Legislatures to alter their constitutions in the following manner. I am aware of the fact that this power is liable to abuse, nor can I ignore the risks to which important and powerful classes, communities and interests will be exposed if Legislatures in India are invested with it without proper safeguards. A majority determined upon having its own way and intent upon removing all obstacles to its policy, may manipulate elections and Legislatures in such a way as to force the hands of representatives of diverse interests and communities, and may make them agree to changes in the constitution whereby their economic, political and social condition may be seriously affected. The delicate poise of the constitution, with its checks and balances, may be so violently disturbed that there is a possibility of a social and political upheaval resulting in permanent injury to the interests of India as a whole which might retard the progress of this country towards Dominion Status. I am a strong advocate of the

theory of minimum interference by the British Parliament in the domestic affairs of India. I feel that India should be allowed to stand on her own legs, and to work out her destiny along the path marked out by her past traditions and present development. It is, however, necessary to bear in mind that nothing should be done by any Legislature in India which has the effect, direct or indirect, of limiting, abridging or withdrawing the privileges and rights of minorities of religion and interests, without the consent of the latter. While I am not opposed to a provision in the constitution whereby Legislatures in India will be allowed to alter their constitution, I am strongly of the opinion that such changes should not be allowed until the following conditions are fulfilled :—

(1) All changes in the constitution affecting any minority or special interest should be approved by a two-thirds majority of both Houses of Legislature, and this majority must include three-fourths of the total number of representatives of communities and classes, such as Muslims and zamindars, etc., affected by the changes proposed.

(2) This must be followed by referendum on the issue and must be passed by a majority of voters of the community affected by the change proposed.

(3) Thirdly, the Indian Legislature should be prohibited from dealing with the provision relating to the power of the Governor, and other matters pertaining to the maintenance of his position as a servant of the Imperial Government. Again, provisions defining the position of the Secretary of State *vis-à-vis* the Government of India and other matters affecting the British Empire, the rights of the Crown or the Indian States, will not be altered by any legislature in India, without their consent.

(10) THE METHODS WHEREBY THESE SAFEGUARDS SHOULD BE CARRIED INTO EFFECT.

I agree with the safeguards as embodied in the report. Here I would like to indicate the method by which they should be enforced. The methods employed for this purpose are varied. The new constitutions of Europe, such as the Czechoslovakian constitution, lay down fundamental principles in their constitution, and apply them to the concrete details of national life by the provision of special laws. For instance, article 129 of the Czechoslovakian constitution provides that " the principles upon which the rights of languages in which the Czechoslovak Republic shall be based, shall be determined by a special law which shall form a part of the constitutional Charter." Article 133 provides that " the application of the principles of Articles 131 and 132 " which deal with the language of, and grants-in-aid to, minorities, " shall be provided for by special legislation." The Czechoslovakian Republic carried out this promise by a law passed on February 29, 1920. The Kingdom of Hungary applied the same principles by issuing a decree on August 21, 1919, for the effectual protection of its linguistic, racial and religious minorities. I do not desire, as I know that it is impossible, to put every minute detail of these safeguards in the new constitution. All that I desire is that the principles underlying the safeguards should be incorporated in a parliamentary statute. I may refer you for an example of this to Section 96B (2) of the Government of India Act, which authorises the Secretary of State in Council " to make rules for regulating the classification of the Civil Services in India, to the method of their recruitment, their conditions of service, pay, and allowances, and discipline, and conduct, such rules may, to such extent and in reference to such matters as may be prescribed, delegate the power of making rules to the Governor-General in the Council or to the Local Governments." Under this law the Central as well as the Local Governments have made rules for the representation of Muslims in various services. The method adopted, therefore, would be generally the same, with this difference that the Secretary of State for India should be ultimately responsible for rules

that will be framed for the protection of minorities in the various spheres mentioned above. I am strongly of the opinion that the power of enforcing such rules should not be delegated to the Central or Local Government, but to the Governor-General or to the Governor.

The Government of India Act of 1919 is remarkable for the amount of rule-making powers it confers on various bodies, and it would not be a departure from the practice which has been consistently followed so far to enunciate the principle of safeguards in a parliamentary statute. The examples cited above show that the safeguards have been embodied in the fundamental instrument of the Government, viz. the constitution, and if they have been incorporated in ten constitutions of Europe, there is no reason why the principles of these safeguards should not be expressed in a section of Indian constitution. I am convinced that they can be worked; I am no less convinced that unless the minority communities are guaranteed these rights the constitution will not be acceptable to them, and the object of all Governments, viz., the contentment and happiness of *all* sections of the population, will be frustrated.

(11) Objections to Safeguards.

The principal objection that has been raised so far to safeguards is that they cannot be drafted and incorporated in a parliamentary statute. To this the reply is that so far as the existing rights of various classes and communities are concerned, they can be, and have actually been, embodied in the constitutions of various countries. I have already given examples of those countries which have incorporated the minorities clauses, advocated by the League of Nations, in their constitutions. For details, please refer to Chapter III dealing with the Rights of Minorities. In it many examples of such clauses are quoted. I give below an example of a clause which can very well be embodied in the Indian constitution. This clause has been suggested by the Bombay Chamber of Commerce and runs as follows:—

" *1st Clause.*—The Indian Legislature has not power to make any law intended or calculated to discriminate against any commercial, industrial or agricultural interests established or to be established in British India by any person or association of persons, whether British subject or not.

" Nothing herein contained shall affect the power of the Indian Legislature to make any law of a discriminatory nature against the subjects of any country, if any law has been passed by the Legislature of such country discriminating against British Indian subjects residing or carrying on business in that country, or the power to impose any duty or duties for the protection of any trade, commerce or industry, agricultural or otherwise in British India."

" *2nd Clause.*—(1) When any question arises in any Court in British India subject to a chartered High Court, as to whether any law made by the Indian Legislature or a Provincial Legislature, was within the power of Legislature, such question shall be referred by such Court to the chartered High Court of the province in which such Court is situated.

" (2) The Court making the reference shall stay the proceedings in the case until the question is decided by the High Court.

" (3) The High Court, after hearing the parties if they appear and desire to be heard, shall decide the point so referred and shall transmit a copy of its judgment, under the signature of the Registrar, to the Court by which the reference was made; and such Court shall on the receipt thereof proceed to dispose of the case in conformity with the decision of the High Court.

" (4) An appeal shall lie to the King in Council from the decision of the High Court.

" (5) The High Court shall have the power to make rules regulating the procedure on such reference and other matters relating thereto.

" No law, ordinance or other measure shall be made or sanctioned by the Indian Legislature or by any Provincial Legislature or by any Municipality or other Local Authority—

" (*a*) Which discriminates or shall tend to, or is calculated to discriminate as between the race or classes comprising His Imperial Majesty's subjects, and which expressly or impliedly, excluding from amenability thereto others of such subjects, shall operate directly or indirectly to abrogate, restrict, detract from, or adversely affect the status or rights of the members of any race, creed, community or class or classes or persons, either with regard to their personal liberties, property or contractual rights or otherwise, however, as held and enjoyed by them at the date of the commencement of this Act in common with others of such subjects, or to interfere with the exercise by the members of any class or classes of any profession, calling or vocation or with the conduct by them of any trade, industry or business upon equal terms in all respects with others of such subjects;

" (*b*) to levy any taxation cesses, duties or other imposts of whatsoever nature or kind exclusively upon any person as being the members of any race, creed or class:

" Provided that nothing herein contained shall affect the right of the Indian Legislature to take any steps in the interest of public safety or to subsidise or assist any industry or undertaking in pursuance of any existing laws providing for special assistance at the expense of the taxpayer or consumer generally, nor prevent the imposition of such protective duties as may be imposed from time to time by the Government of India.

" In any event, the aforesaid restrictions shall not apply to the case of subjects of such countries as have adopted or may hereafter adopt discriminatory measures against subjects of India whether ordinarily resident in those countries or not, or against the import of Indian goods."

(12) Defects of the Clause.

It will be seen that in clause (2) the procedure is rather complicated. It is open to the following objections:—

(1) It will involve a very large amount of litigation.

(2) It will be very expensive, and few persons will take advantage of this measure.

(3) It will involve considerable delay in the disposal of suits.

(4) It may also lead to a considerable amount of harassment to various sections and to the Legislature and other autonomous bodies.

(5) There is another objection to this proposal which is fatal to this proposal. It is this. It will involve constant interference by the courts in the details of administration and in the policy of the Executive. This will lead to very serious friction between the Judiciary and the Executive.

I would suggest the following modifications in this proposal:—

(1) Instead of permitting every person to bring a suit in any court of British India, challenging the power of a Legislature or other bodies, it should be laid down that such suits should be brought only by a certain percentage of the class or community affected by that measure. Let me give an example. If Muslims feel that a municipal board has no right to pass a resolution which is against their religious convictions, and is also contrary to ancient usage, they should be allowed to bring the suit if one-half of the Muslim electors of that board wish to do so. In the same way if two-thirds of the Muslim members of a Legislature feel that a certain resolution or bill which is before the House or has been actually passed by it, violates their rights, as recognised by law, they should have the right to bring a suit.

(13) ALTERNATIVE PROPOSAL.

It is admitted by all that machinery of the courts in British India is slow, complicated, cumbersome, and expensive. In place of this proposal, I would suggest that we should follow the same procedure which is followed in other countries. I suggest that a certain percentage of electors of a community or class affected by any legislation, which in the opinion of the minorities violates their rights, should be allowed to petition the Governor, and request him to take action on their representation on the ground that it violates their rights. The Governor, in order to expedite such applications, may require the written opinion of the Judges of the High Court on these applications, or decide the case himself. This method is followed in other countries.

According to Lord Bryce, seven states of the United States of America have empowered the Governor or Legislature of a state to require the written opinion of the Judges of Higher State Courts on points submitted to them. There exists a similar provision in the Statute of 1875, creating a Supreme Court for Canada, while the Home Rule Bill introduced in the House of Commons in 1886, contained Section 25, whereby the Lord Lieutenant of Ireland or a Secretary of State was empowered to refer a question for opinion to the Judicial Committee of the Privy Council. In the Home Rule Bill of 1893, this provision reappeared in the modified form of power to obtain, in urgent cases, the opinion of the Judicial Committee of the Privy Council on the constitutionality of an Act passed by the Irish Legislature. According to Article 13 of the new German Constitution, " If there is a doubt or difference of opinion as to whether a provision of a State law is consistent with the Federal law, the competent Federal or State authorities may appeal for a decision to the Supreme Federal Court, in accordance with the more detailed provisions to be prescribed by a Federal law."

Lastly, reference may be made to Section 93 of the British North America Act of 1867. Under this Act the minority, if it feels that the provision of the constitution has been violated, may appeal to the Governor in Council. The latter may either decide it himself, or refer it to the Supreme Court for decision. Let me quote the relevant provision from the *Federal and Unified Constitutions* by Dr. A. P. Newton (Section 4, repealing Section 37, Chapter 135, revised statutes, 1886):—

> " (1) Important questions of law and fact touching provincial legislation, or the appellate jurisdiction, as to educational matters vested in the Governor in Council by the British North America Act, 1867, or by any other Act or law, or touching the constitutionality of any legislation of the Parliament of Canada, or touching any other matter with reference to which he sees fit to exercise this power, may be referred, by the Governor in Council, to the Supreme Court for hearing or consideration; and the court shall thereupon hear and consider the same.
>
> " (2) The court shall certify to the Governor in Council, for his information, its opinion on questions so referred, with the reasons therefor, which shall be given in like manner as in the case of a judgment upon an appeal to the said court; and any judge who differs from the opinion of the majority shall, in like manner, certify his opinion and his reasons."

I have deemed it necessary to detail these provisions, as I think that the position of the Governor, and even of the Governor-General, will be exceedingly difficult, if questions concerning the treatment of minority communities by various elective bodies are frequently raised. I wish to make it perfectly clear that I do not want the Governor to take this responsibility entirely on his shoulders. In cases where injustice is perpetrated by a local body and where the letter of the law is flagrantly violated, it will be the duty of the Governor to take prompt steps, and

mete out suitable punishment. I think if the majority of Muslim electors of any self-governing body, or the majority of members of any elective body of a Legislature make a representation regarding the violation of any of these safeguards, or against any measure introduced in such a body, and request the Governor to uphold the law, it should be the duty of the Governor to decide on the question and to declare whether any one of these safeguards has actually been violated or not. There are various courses open to him. He may, of his own accord, prohibit a recalcitrant body from persisting in its course of folly and injustice; and he *shall*, on the representation of the majority of the Muslim members of a Council, Legislature, or majority of electors of a local or other elective body, as the case may be, take action on any measure which appears to violate any one of the fundamental safeguards. The Governor may, if he deems fit, refer this matter to the full bench of five judges of the High Court of the province for decision. If any local self-governing body is guilty of the violation of these safeguards, it should be suspended or, in extreme cases, dissolved.

There will, therefore, be two methods of redressing the grievance:—

(1) The first method is indicated in the clause mentioned.

(2) The second method I have suggested is in operation in Canada.

The safeguards cannot of course be embodied in their entirety in a statute of the British Parliament. But their principles can be, and have been, embodied and I see no reason why it should not be done in the Indian constitution, specially when the minority communities are emphatically of the opinion that without the safeguards, they will never consent to any re-arrangement of the constitution. Take, for instance, Section 45A of the Government of India Act, which confers power upon the Governor-General in Council for the framing of rules on diverse matters. Again, take Section 96B (2), which authorises the Secretary of State in Council to make rules for regulating the classification of Civil Services in India, the methods of the recruitment, their conditions of service, pay and allowances and discipline and conduct. Such a provision is sufficient for our purpose. This power has been delegated to the Government of India and also I believe to the Local Government and, it is by virtue of this power that the Government of India nominates members of the minority community to Imperial Services, like the Indian Civil Service; and the United Provinces Government has actually reserved 33 per cent. of the posts for Muslims in the examination for the Provincial Executive Service. Indeed, the British Parliament has frequently passed laws for the protection of the interests of European servants in India. The recommendations of the Lee Commission have been embodied in a statute passed by the British Parliament in 1925. It is, therefore, unreasonable to say that a subject like this cannot be dealt with by the British Parliament or its principles embodied in a statute. So far as the representation of Muslims in the services is concerned, I shall be prepared to support the retention of Section 96B (2), provided rules are made under the section for the representation of Muslims in those services in which they are inadequately represented at the present time, e.g., local bodies and, in fact, every service except the Police Department and the Provincial Executive Service. I may be allowed to quote what I stated before the Joint Free Conference at Lucknow on 10th December, 1928:—

> "I should also like to make it clear that it is not essential that every word of each of these safeguards should be slavishly copied in a parliamentary statute. We know the difficulty of drafting a statute which will contain all the minute details for which we need protection. All that I want to point out is that the principles should be enunciated in the parliamentary statute, and that power should be given by rules that may be framed in accordance with that statute to apply that principle to the various spheres for which

we need protection, to education, to services, to local bodies, and so forth. This principle has been in operation in other countries, and the Government of India Act of 1919 conferred rule-making powers on various bodies, the Secretary of State, the Governor-General, and so on, whereby these bodies were empowered to frame rules in consonance with the principles enunciated in that statute. This is precisely the form which we should like the statute to exhibit. So I wanted to make this point clear, because it might be thought that we desired all of our demands to be embodied in precisely the same form. That is not so. We want the principle of those demands to be embodied, and the application to be carried out by the Secretary of State, the Governor-General or the Governor."

I may refer here to another objection. It is said that we must trust our fellowmen, and that safeguards will create mistrust and suspicion. In justification of it, the example of Canada is often cited, where the French minority in lower Canada is living happily together with the English. This is, I am compelled to say, an entirely incorrect idea of the whole history of Canada in the nineteenth century. Lower Canada, or the French minority at Quebec, is now living happily together, because it has safeguarded its language, education and laws by means of the constitution of 1867. Had the Act of 1867 established a unitary Government, it would most certainly have been opposed and resisted by the French Canadians. Sir John MacDonald, the great Canadian statesman, made this perfectly clear in the Canadian Legislative Assembly on Monday, 6th February, 1865. He himself desired a unitary Government, and thought that a "Legislative Union" for Canada was preferable. But it was vehemently attacked by the French Canadians, and MacDonald admitted, in the speech referred to above: "It would not meet the assent of the people of lower Canada, because they felt that in their peculiar position, being in a minority, with a different language, nationality, and religion from the majority—in case of a junction with the other provinces, their institutions and their laws might be assailed, and their ancestral associations, on which they prided themselves, attacked and prejudiced; it was found that any proposition which involved the absorption of the individuality of lower Canada—if I may use the expression—would not be received with favour by her people." The Canadian constitution has succeeded, not because the French minority merged its language, education, and cultures, but because these rights were safeguarded by the Federal Government established which the Act of 1867 established. It is true that no specific mention was made of these rights with the exception, of course, of Section 93 of the Act, but it is no less true that the form of the Government, which was federal, and which conferred provincial autonomy upon Quebec, solved all the racial and religious quarrels of the country. It is so, because the French minority is in an overwhelming majority in Quebec, and through its supremacy in this province, has safeguarded her education, religion, language and economic position. It is therefore meaningless to assert, as many people are fond of asserting, that such rights have not been granted by the British Parliament to any community before. The position must be viewed from the point of view of the geographical distribution of the two races in Canada, and viewed from this point, we are perfectly justified in stating that the Act of 1867 did safeguard the French minority in all the rights which we are claiming by giving provincial autonomy to the province of Quebec and also incorporating Section 93. Had the Muslims possessed the same overwhelming majority in any one province of British India, had they been 80 per cent. in the Punjab or Bengal, the analogy with Canada would have been appropriate, and our demands for safeguards would not have been insistent. But the position is completely altered by the fact that in Bengal where they are supposed to be in a majority of 3.9 per cent., they are in a minority for all practical purposes, as they are low in social, economic, and educational scale; and

though their position in the Punjab is slightly better, nobody can really say that a majority of 5 per cent. is an effective majority.

(3) I am, and have always been of the opinion that it is only by mutual trust and by exhibiting a spirit of compromise and give-and-take that we can solve the communal problem in India. It must be confessed, however, that such a trust is lacking at the present time. The Muhammadan community has, with a few exceptions, co-operated with the Statutory Commission under the firm conviction that its case will be patiently heard. It does not desire any privilege; it asks for no concessions; it has always opposed monopolies, whether of caste or of creed, and it has resisted, and will continue to resist, any measure which is likely to establish an oligarchy in India. If we are now told that the problem of protection of our education, language, and political and economic rights is one with which Parliament cannot deal, that it is, to begin with, impossible to protect the interests of minorities by a parliamentary statute, my community will be keenly and, let me add, justifiably disappointed. It feels that the constitution of country should pay regard not only to the various organs of the Government and their relation to one another, but also to the deeper and vital problem of the contentment of various classes and communities in India. The structure the new constitution may establish may be excellent, and it may contain the latest devices, and the quickest remedies for the Newtonian equipoise of the different authorities which it may constitute, but if it solves the communal problem by deliberately ignoring it, it will be like the deep sea fish, which, when brought to the surface, first swells, and then bursts. If the new constitution does not take into account the various communities who will be affected by it profoundly, and who are expected to work it, if it leaves out of account great and powerful interests, e.g., the commercial interest and the landed interest, it will be a complete failure. The problem of minorities cannot be solved simply by asking the latter to look to their fellow-beings for redress of their grievances. Most certainly we should, and it is our duty to do so, for we know we have to live in the same land with our fellow-citizens. We need this, it is true; but we need something more than this. We need guarantees for the future, guarantees which will be adequate and effective. It must be confessed, however, that there is no prospect of the solution of this problem, and the Nehru Report which was intended to pacify the discordant elements of the Indian population, has aggravated the evil. Instead of uniting India, it has divided her. The Muslims are practically unanimously opposed to it. They feel that the British Parliament should deal with a problem upon the successful solution of which depends the welfare of millions of people, and the smooth working of any machinery that may be devised by the Commission. The latter cannot say, " We are very sorry, but we know that this is not a matter with which we are concerned. We deal only with the *form* of the Government. We are here only to provide a framework of the future Government of India. Beyond that, we shall do nothing." If such a policy is adopted and the minorities are presented with an Instrument in which there is no provision at all for their protection, then, I am convinced, there will be keen disappointment throughout India, and my community, which has co-operated whole-heartedly with the Commission, will be greatly disappointed. I feel that I must give expression to these views on behalf of those who, like myself, have fought for co-operation with the Commission. I do not want to be misunderstood. I do not desire, my community has never desired, anything which might be regarded as an encroachment on the rights of other communities. I would very strongly oppose any claim put forward by any community, class or creed which is likely to produce this effect. These proposals are put forward in the hope that they are not inconsistent with, or inimical to, national progress. I am convinced that they are an indispensable preliminary to the *constitutional progress* of our motherland.

(4) It will be noticed that the clause quoted above merely maintains existing rights. It does not confer any new ones. There are, however, several communities in India who have no right in important spheres of national activity, such, for instance, as the depressed classes, and Muslims. Again, existing " rights " of depressed classes are so restricted that they cannot rely on this clause for the protection of their interests. The clause should, therefore, be amended, so that the legislative and other bodies may be prohibited from abridging or restricting not only the existing rights but also those rights which any race, community, or class enjoys under the new constitution.

(5) I have dealt with the methods that may be devised for enforcing our safeguards. In my scheme, the Governor will be the pivot round whom the machinery for enforcement of our safeguards will revolve. It is, however, necessary to point out that resort can be, and, I believe, will be, had to the ordinary courts for redressing our grievances, and enforcing the provisions for the protection of minorities. Let me summarise my conclusions :—

(*a*) The Governor will have the power to require any case to be brought before the Cabinet. It will be his duty to advise the Cabinet, but he will not ordinarily overrule its decisions.

(*b*) The Governor may require that an important matter should be submitted to him before final orders are passed by the Cabinet.

(*c*) In the administration, he should have the power to ensure that the orders of the executive are carried out. Of course, the Cabinet will ordinarily take the necessary measures for the purpose, but the Governor cannot be absolved of his responsibility in this respect.

(*d*) The Governor will have the right to call for the resignation of the Ministry. Such a power is conferred on Dominion Governors, and is exercised at times. If he is unable to form a satisfactory Cabinet, he can dissolve the Council.

(*e*) The Governor will be specially charged with the duty of safeguarding Imperial and Central control. In all matters in which the question of Central or Imperial control is involved, or the rights of minorities and other special interests are affected, the Governor must have the power to suspend orders of the executive Government to prevent action being taken in contravention of the law, or to enable a reference to be made to the Government of India when the Central control is involved.

(*f*) For the protection of minorities, the Governor should, in the field of executive action, have the power to suspend executive action on the part of the Cabinet, and if they refuse to listen to his advice, he should have the power to call for the resignation of the Cabinet, the dissolution of the Council and, finally, the suspension of the constitution.

(*g*) As regards legislation, I have already pointed out that if a certain percentage of Muslim members of a body memorialise the Governor, it will be his duty to consider the memorial carefully, and to take such action as he may deem suitable.

These powers should be given to the Governor by a statute, and should be definite, clear and unambiguous.

(14) Muslims and the Nehru Report.

I will deal very briefly with the Nehru Report, as an extended treatment is impossible in a report of this kind.

(1) The Nehru Report has built up an imposing edifice on an insecure foundation. It tried to solve the communal problem by advocating adult suffrage. This is an ideal with which I and the Muslims of India are in complete agreement. The question, however, with which we are now concerned is: Should adult suffrage be introduced at the present time? I am emphatically of the

opinion that at the present time it is impracticable. The electorate is not yet ready for it. It needs training, it lacks education, it is deficient in organisation, and it is still enveloped in the Cimmerian bog of superstition. The franchise should be widened. The recommendations of our Committee on this subject are sound and practicable.

(2) If it is conceded that—and I do not know any person who has had sufficient experience of Indian conditions, who will not concede this point—adult suffrage is impossible under the existing circumstances, then the edifice so laboriously built up by the fond authors of the report topples down, and the communal problem, whose solution was attempted by this device, is intensified.

(3) The Nehru Report not only reduces the proportion of Muslims in seven out of nine Legislatures, it also deprives them of rights which they now enjoy by law. For instance, it deprives them of separate electorate in local bodies, which they now enjoy by the U.P. Acts of 1916 and 1922.

(4) It substitutes joint electorate, with a fixed reservation of seats, for 10 years, after which the reserved seats also will disappear. The effects of this will be disastrous in the extreme. Muslims, after 10 years, will be wiped off every Legislature and other self-governing bodies in India, and will form a sub-caste, or a sub-division of the Depressed Classes. The naivety of the framers of the Nehru Report will be clear from this proposal. Needless to state, the Muslim community has unanimously rejected the Report.

(5) Muslims are not guaranteed any share in the administration of their country; while their language, education, culture, and religious rights have been contemptuously brushed aside.

(6) Muslims, it is true, will manage to exist politically for 10 years. Other communities and classes will not, however, be so fortunate. The Europeans, Anglo-Indians, Christians, and the Depressed Classes will be totally unrepresented in the Indian Legislatures. As adult suffrage cannot be introduced, the Depressed Classes will continue to occupy the unenviable, social, and economic and political position which they now occupy. The economic and other interests of Europeans, and the special privileges which the landlords now enjoy, are treated as scraps of paper.

(7) In the centre, there will be a narrow oligarchy of urban *intelligentsia*. The Central Government will be effectively bureaucratised. As Muslims have not been given separate representation in the Central Legislature, even for 10 years, and as, in a system of joint electorate, no European, Christian or a member of the Depressed Classes will have the slightest chance of election to the Central Legislature, we shall witness the phenomenon of a small, narrow, and intellectual oligarchy, expert in manipulating elections, dominating the Indian States as well as the provinces of British India. As the scheme sketched in the chapter dealing with the Indian States makes it perfectly clear, the new Dominion Government will rule with a rod of iron both Indian India and British India. Clause 13A of the Report supplies the coping-stone to the edifice, and makes the new Dominion Government a sort of Leviathan. The treatment of the military, financial and naval problems is beautifully vague. It is clear, however, that the new Dominion Government will lean for support for a long time on British officers and British bayonets. Will the latter consent to this? This, of course, is for them to decide. I doubt very much whether the new Dominion Government can be maintained without British Army.

There is not a single representative Muslim in India at the present time who approves of the Nehru Report.

(15) SERVICES.

I have dealt with the position of Muslims in the services in a separate chapter, to which your attention is drawn. Here I deal with the problem of the reorganisation of Indian services, consequent on the introduction of provisional autonomy in these provinces.

The position which has resulted from the decisions taken on the Report of the Lee Commission may be summarised as follows. Of the All-India Services (excluding the Indian Medical Service) the only ones that remain for the future on an all-India basis, and continue to be recruited and controlled by the Secretary of State in Council, are those which deal wholly or mainly with the reserved field of administration. The remainder of the all-India Services are being converted into new Provincial Services of a standard higher than the old Provincial Services, inasmuch as they were made responsible for the work which was previously done, not by a Provincial Service, but by an all-India Service. The Secretary of State is also parting with his control over the majority in the Central Services, Class I, which he had previously in varying degrees exercised. The Secretary of State in Council thus retains control over—

(*a*) the All-India Services in the reserved field and the Indian Medical Service;

(*b*) the Central Services, and certain portions of others.

The Government of India should, in my opinion, receive full powers of control over the Central Services, while the Provincial Governments should have full powers of control over, not only the old Provincial Services, but the new Provincial Services which should be organised up to take the place of all-India Services in the transferred field. It must be borne in mind that the delegation of power by the Secretary of State to the Central and Provincial Government was made subject to certain general conditions designed to safeguard the rights of existing members of the Services, to ensure impartiality in making first appointments by utilising the services of the Public Service Commission or of permanent Boards of Selection when appointment is made otherwise than by competitive examination, and finally to secure the observance of a proper procedure and rights of appeal in disciplinary cases. Subject to these general conditions, the organisation of the Services, the numbers, pay and conditions of service generally and the method of making first appointments as well as the ordinary administrative control should be, as they, as a matter of fact, are entirely in the discretion of the Governments concerned. Where, on the other hand, the Secretary of State in Council has retained his control, he exercises it strictly, and himself prescribes the strength of the Service, including both the number and character of the posts to be filled, the methods of their recruitment, the conditions of service, their allowances and pensions. While the ordinary administrative control of the members of these Services rests naturally with the particular Governments under which they are working, the Secretary of State in Council is the final authority in matters of discipline and in all representations that the members of the Services may make in regard to their conditions or the equity of their treatment.

On the transferred side, Ministers were expected to organise their own Services.

I am of the opinion that the percentage fixed by the Lee Commission with regard to the Indian Civil Service and the Imperial Police Service should be reduced to 25, and it should be steadily reduced until it is 10 per cent. in 25 years. With regard to the Europeans in these Services I am prepared to support all the safeguards embodied in the Government of India Act for their protection. I, therefore, think that the provisions of section 62B (1), 67A, and 72D, and 96B (2) concerning the Civil Service of the Crown in India should be retained. I am also prepared to retain Devolution Rules (10) and Appeal Rules (17), for the purpose of

safeguarding the European members of the Imperial Services. I have no objection to the retention of Civil Services (Governor's Provinces), Classification Rules, the Fundamental Rules, the Premature Retirement Rules, the Superior Civil Services (Revision of Pay, Passage and Pension) Rules, and the Civil Services (Governor's Provinces) Delegation Rules. I do so because I feel that India will still require a certain percentage of Europeans in the I.C.S. and the Police Services. If we want the help of Europeans we ought to be prepared to guarantee them security of tenure and equitable treatment. It is for this reason that I advocate the retention of the sections of the Act, and the rules framed under these sections.

I may say very briefly that I am not in favour of limiting, restricting, abridging, or withdrawing any of the rights or privileges which the European members of the Imperial Services enjoy by law.

I think it is necessary for the peaceful and prosperous development of my country that a European servant should have no apprehension regarding his prospects. Nor should an Indian Legislature do anything, directly or indirectly, which is likely to keep members of this class in a state either of suspicious aloofness, or of aroused hostility. It is the experience of a number of influential and representative persons that European officials inspire confidence, in all cases in which there is a clash of communal and class interests. I believe that this is only a temporary phase, and I look forward to the day when every Service in India will be manned exclusively by children of the motherland. At the present time, it is not practical politics to dispense with the services of persons who, whatever their shortcomings may be, have tried, and in many cases successfully tried, to adapt themselves to the changing conditions of India. Indeed, a perusal of the evidence given by Indian Ministers from different provinces of India before the Reforms Enquiry Committee in 1924 will convince anyone that the European servant, who had hitherto been regarded, and, let me add, in some cases, justly regarded, as unsympathetic and reactionary, adapted himself to the changes produced by the Reforms Act with surprising success. It may be objected that it is impossible to keep servants who look to the Secretary of State for India for protection under the control of Ministers responsible to the Indian Legislatures. In reply, I need only refer to the experience of Indian Ministers recorded in the Reforms Enquiry Committee Report. At that time, the atmosphere was quite different and Indian Ministers had just been installed in office. A certain amount of suspicion was inevitable between the new rulers and the old. Yet the administrative machinery worked smoothly and there was, as a general rule, no friction. If that was so in 1920, there is no reason why the European servant should become unsympathetic or hostile to the new constitution, now. The change of 1920 was sudden, unprecedented and almost unique. If the European exhibited his adaptability then, what ground is there for supposing that he will become hostile in 1930? I hold strongly that the relation of the Imperial Services *vis-à-vis* the Secretary of State for India as defined by the existing law is not incompatible with the honest, impartial, and efficient discharge of the duties by the European Civil Servants who have to work under Indian Ministers in future. A certain number of Europeans may be appointed in other services also, such as the Irrigation Department, the Forest Department, and the Education Department. They will, of course, be experts, whose technical knowledge and experience may be needed for the building up of an important department of the Government. All other services should be provincialised. This does not mean that all the Imperial Services should be reduced to the level and status of the Provincial Civil Service. All that it implies is that the Provincial Government will then acquire control over the appointment, promotion, and dismissal of such servants. I am strongly of the opinion that the services under the Provincial Government should be organised into cadres, approximating to the cadres of existing services. There should be a

Subordinate Service; a Provincial Service; and, lastly, a service corresponding to the present Imperial Services, which may be called the Superior Provincial Service. I feel very strongly that the Superior Provincial Service should be recruited mainly by competitive examinations. It should not be reserved, as suggested in certain quarters, for members promoted from the Provincial Service. The proportion of the members of the Superior Provincial Service appointed by examinations to the members who are promoted to this service from the Provincial Service should be three to one.

I will now deal very briefly with a few other problems connected with the question of all-India Services.

(1) Are there any portions of the field of provincial administration in which Parliament would feel that it has a special responsibility? To this my reply is that the Parliament should confine itself to the protection of those members of the Imperial Service to whom the Secretary of State has promised protection.

(2) Again the interests of the general administration of the country require that in certain branches there should be a high and uniform standard which could not be insured if all the services were organised and recruited on a provincial basis. Examples may be cited of branches demanding technical and highly specialised skill, such as engineering, forests, etc. Services in these branches should be organised on an all-India basis and the Government of India should lay down a uniform standard for the admission of persons to these services.

(3) Again, if in any service the continuance of the British element is required, the Provincial Governments will be obliged, in some cases, to obtain that element only through the assurance given by the control of the Secretary of State.

(4) For special appointments, the Provincial Governments, or the Government of India as the case may be, will, if they obtain the services of a person on the advice of the Secretary of State for India, be bound by such conditions as the Secretary of State may impose.

(5) There is a great risk of the provinces becoming water-tight compartments, recruiting their own inhabitants on such terms as they can get them. The standards will be lowered; and the *esprit de corps* of services which exercises a healthy influence at the present will be seriously affected. For these reasons I am strongly of the opinion that recruitment of Indians to the majority of these posts should be on an all-India basis.

(6) Another factor which is of supreme importance, should also be taken into account in the consideration of this problem. Let me quote the following from the memorandum presented to the Indian Statutory Commission by the Government of India on *the subject of the Superior Services in India:* " One problem, which has come prominently to the fore in consequence of the extensive policy of Indianisation, is that of minority communities. *Under a system of unrestricted competition, experience showed that the Hindu community would practically monopolise the superior services.* This was a position against which the minority communities, and in particular the Muhammadan community, protested vigorously, and the justice of that protest has been recognised by the Government of India. Consequently, as a general rule, provision has been made for withholding from competition approximately one-third of the vacancies, so that if the results of the competition necessitate such action, these places may be filled by nominating fully competent members of minority communities. *The system is at present working satisfactorily in the Indian Civil Service and the Indian Police Service, in that there is no lack of qualified candidates of minority communities for appointment by nomination.*" The statement by the Government of India on the representation of minorities in the services is most important. Their admission that the system of appointment of members of

minority communities is working satisfactorily in the Indian Civil Service and the Indan Police Service has a most important bearing on the question of Provincialisation and Indianisation of Service.

(7) Again, the problem of the representation of minority communities in the services can no longer be shelved. Whatever scheme is framed for the reorganisation of these services, it must be distinctly and clearly laid down that the claims of the minority communities to an equitable share in the administration of their country should be satisfied. Otherwise there is a danger of a narrow oligarchy dominating the entire administration of this country.

I have dealt with the question in chapter IV of this Report where this problem is discussed in detail. I am convinced that unless this principle is consistently and logically applied, all our schemes for the re-arrangement of the constitution will be useless.

(8) I am strongly of the opinion that the services should be absolutely free from political influences. With a view to achieve this, it is necessary that a Provincial Public Services Commission should be established with adequate and substantial powers for the recruitment of candidates for all posts. The Commission should also possess disciplinary power, and should be allowed to consider representation from public servants, frame rules for the conditions of employment in the service and adjudicate on all questions of dismissal, etc., of a public servant. Let me refer to Act No. V of 1902 passed by the Commonwealth of Australia which created a Public Services Commission for the Commonwealth. The following brief account of the powers conferred on the Public Services Commission in Australia may be summarised here. In this Act, the most elaborate provisions are laid down to secure that the control shall not be political, and shall be in the hands of a Commissioner who cannot be removed except on an address from both Houses of Parliament. The service is classified into four grades, administrative, professional, clerical and general, and the principle of promotion by merit and seniority, but not by seniority alone, except in case of equal merit, is followed. The power is given to take in outsiders if there is no other equally capable candidate in the service, but the danger of political jobs is controlled by the requirement in the case of all promotions or new appointments of a recommendation from the Minister in charge of the department in question, a recommendation by the Commissioners and a decision of the Governor in Council. If the decision be to reject the candidate proposed by the Commissioner, the only alternative is to reject him and ask for another, and the cause of this action must be laid before Parliament. The servant, if accused of important offences, must be tried by a Board of Enquiry. I am of the opinion that the powers of the Commission should be as follows:—It should be the chief authority for determining methods of recruitment; it should decide the preliminary qualifications of candidates and determine the syllabus of the examinations. It should also hear disciplinary appeals, representations about particular grievances or claims for compensation by officers, and general questions connected with conditions of service, such as pay, allowances, and pensions. Provision may also be made for linking up the activities of the Central Commission with the Provincial Public Services Commissions. The Provincial Public Services Commission should also recruit candidates for important offices maintained by local bodies such as Secretary to the Local Board, Public Health Officer, Engineer and other officers who are now appointed by local bodies. The Provincial Public Services Commission will organise a cadre for each of these services, frame rules for their appointment and promotion, and hold competitive examinations, or such other tests as they may deem necessary, for their admission to the services of municipal and district boards, and other self-governing bodies. I am strongly of the opinion that appointments to the Commission should be made by the Central Government. By this means a certain amount of uniformity

will be achieved, and a high standard maintained. It is important to note that all new constitutional arrangements, regarding services in each province, should be accompanied by perfectly specific statutory provision requiring the establishment of satisfactory machinery to secure for the provincial services in recruitment of dismissal and promotion, and other matters the same kind of provision that is now afforded to the members of the all-India services and the Central services by the Public Services Commission, and by the Government of India Act of 1919. I attach very great importance to this provision, as I believe that until and unless the conditions of service are satisfactory and the tenure of our public servants are secure, the right type of men will not enter these services, and the interests of the province will be seriously affected.

(9) Another important point to be noticed in this connection is that the ratio of Muslims should be fixed in every grade of service, and the Public Services Commission will be required to see that this ratio is maintained in each grade. This they may do by various methods. I may suggest that all candidates, whether Muslim or Hindu, should be appointed on the result of a competitive examination, or in the case of special appointments, they should be selected if they satisfy such tests and conditions as may be imposed by the Commission. Muslims should be selected from the Muslim candidates and Hindus from the Hindu candidates. This system has been in operation in the United Provinces in the recruitment of candidates for the United Provinces Provincial Executive Service for the last eight years, and has worked most satisfactorily. It has just been extended to the examination held for the Excise Inspectors. The Chief Secretary to the United Provinces Government admitted, at a meeting of the Joint Free Conference at Lucknow, in December, 1928, that the candidates selected on the result of a competitive examination, in which posts were reserved for Muslim and non-Muslim candidates, were efficient. The ratio of Muslims has been fixed at 33 per cent. of all candidates. Both these examinations are competitive, but Muslims are chosen from among Muslim candidates, and Hindus from among Hindus in accordance with the ratio fixed for each community. I strongly support this system, and recommend that the Public Services Commission should be charged with the duty of maintaining this ratio in all services.

(16) Financial Administration of the Local Government.

I do not wish to deal minutely with the financial condition of this province, as the data at our disposal are insufficient. I think it necessary, however, to draw your attention to one or two salient features of the finances of this province, in order to bring out the need for the changes which I suggest. The annual accounts of the United Provinces have showed a succession of deficits since the introduction of the Reforms up to the end of 1925-26 amounting in all to over Rs.3 crores, which were met partly from the opening balance of Rs.80 lakhs at the beginning of 1921-22, and partly by the appropriation of a considerable portion set apart for development purposes. Except for an increase of irrigation rates and court-fees, there has been very little additional taxation. It may be noted that the United Provinces Government had to be warned by the Government of India that no loans would be sanctioned, whether they were to be raised in the open market or obtained from the Central Government, if the proceeds were likely to be applied to the practice of financing of revenue deficit.

The general financial position of the province was a source of considerable anxiety until the year 1925-26 when, owing mainly to the remission of Rs.56 lakhs by the Central Government, financial stability was expected to be restored. The actuals of the year, however, showed a deficit of Rs.31 lakhs, and with the gradual reduction and final cessation of its contribution, the position has improved very considerably, and the

revised estimates for 1927-28 show a surplus of Rs.152 lakhs. The following remarks of the Finance Member of the province in his Budget speech in 1927 summarise the present financial position of the province:—

> "How much yet remains to be done I recognise as clearly and as readily as anyone. But there is reason to hope that in the matter of finance, we are at length turning the corner. The remission of our contribution for which the budget of the Central Government provides will add materially to our resources. Further, our revenues will, before long, steadily increase . . . . Our revenues, however they may expand, will never be in excess of our needs. But in the coming years they will, I believe, be more adequate to our requirements than they have been in the period that has elapsed since the Reforms."

Since then the province has received the benefit of the final remission of the last instalment of the provincial contributions. The above account will show at a glance the difficulties with which these provinces have been faced. The question now arises whether the inequalities arising from the present distribution of resources between the Central and the Provincial Governments can be mitigated, if not entirely removed. I offer the following suggestions on this point.

(1) The Central Government should make grants from Central revenues for expenditure on a few important provincial subjects. Grants-in-aid from federal revenues to the provinces have been given in Canada for the purpose of constructing and improving highways and of developing agricultural and technical education; and in Australia, for the provision of hospital treatment, and for persons suffering from veneral diseases, etc. The Central Government might, for instance, allot grants-in-aid to the provinces for a series of years for compulsory primary education, public health, and construction of roads. These grants should be subject to the vote of the Central Legislature. It is clear, however, that some sort of control, which is consistent with provincial autonomy, will have to be exercised by the Central Government.

(2) I approve of the suggestion made in paragraph 530 of the Taxation Enquiry Committee's Report. The Committee state that the income tax might continue to be levied by the Government of India, but a definite share of the yield might be allocated to various provinces on principles to be determined. It may be worth while to provide for a flat rate on the total assessable personal income, as this would be simple and more convenient. This was suggested by the Government of India in their letter to all the Provincial Governments on the Taxation Enquiry Committee's Report.

(3) Another proposal of the Taxation Enquiry Committee is that a small portion of the receipts of the super-tax on companies or corporation property tax should be allocated to provinces. The most serious difficulties that stand in the way of such an arrangement would be removed if a reasonable agreement could be secured among the provinces as to the principles of apportionment.

(4) Again, there might be a surcharge or *centimes additionelles* confined to the income tax. These are levied on the Central income tax in France, Belgium, Italy and various other European States for local purposes. The principal objection to such surcharges is that they might encroach seriously on the sphere of Central revenue. This objection would be removed if the surcharges were limited to a definite percentage of rates prescribed by the Government of India. A tax on tobacco might well be raised by the Central Government and the amount distributed between the Central Government and the Local Government.

(5) Certain fundamental principles regarding the powers of taxation of provinces must, however, be very constantly kept in view, if we are to avoid financial mal-administration:—

> (i) No province should be in a position to tax for its own purposes anyone outside the province.

(ii) There should be as little opportunity as possible for interference by one authority in the legitimate field of the other. As far as possible, the system should not involve the levy or collection on the authority of one Government of what another Government spends.

(iii) Exercise of the powers of taxation should not result in variations in the economic condition under which industry and commerce are carried on as between different provinces.

(iv) The Central Government should be in a position to fulfil their international obligations under commercial treaties with foreign countries.

(v) The Central Government should be in a position effectively to prevent encroachments on its fiscal sphere and to safeguard the administration of Central provinces.

(vi) When there is a conflict between the fiscal interests of a province and those of the country as a whole, the latter should prevail.

(6) *Provincial Borrowing.*—Before the Reforms, local authorities, such as Port Trusts, and the larger municipalities were allowed to borrow, subject to certain restrictions, small amounts in the open market, on local security. This right was never accorded to the provinces, partly because the revenues of India were legally one and indivisible, and were liable for all debts incurred for the purposes of the Government of India, and partly because the Provincial Governments possessed no separate resources on the security of which they could borrow. This privileged position gave the Government of India an effective means of ensuring provincial solvency and the right of detailed interference for this purpose.

Even as regards what was known as the Provincial Loan Accounts, the control was very detailed. The procedure observed was briefly as follows. Every year the provinces submitted an estimate of their requirements for the following year in respect of loans to cultivators and to municipal and other authorities. The Government of India provided the net amount after making such reductions as were necessary on account of their borrowing programme for the year.

I need not detail the changes introduced since the Reforms, as they are too well known to need recapitulation here. The existing restrictions on the borrowing power of the Local Government are embodied in the Local Government (Borrowing) Rules which are based on section 30 (1a) of the Government of India Act of 1919. The loans are raised on behalf of, and in the name of, the Secretary of State in Council, and on the security of the revenues allocated to the province. My definite proposals on the question of borrowing are that all restrictions now imposed on the borrowing powers of Provincial Governments are in many cases unnecessary and inexpedient, and I recommend that they should be radically modified in order that every province may be able to borrow in the open market. This need not affect the Provincial Loans Fund, which was introduced in 1925, with the object of regulating the terms and conditions, the rate of interest, and the period of amortisation of all advances made by the Central Government to the Provincial Governments. It is worked on the principle that if a Provincial Government makes suitable arrangements for the payment of interest and amortisation, money will be made available from it to the full extent of the provinces' requirements, and the Government of India would normally refrain from scrutinising the purposes for which loans are required by the province. The Fund, it need hardly be added, does not affect the rights of the provinces to borrow in the open market subject to the conditions laid down in the Local Government (Borrowing) Rules. I recommend, therefore, that the Local Government Borrowing Rules be amended, and provinces should be allowed to borrow in the open market, subject to such co-ordination of the borrowing activities of the various Provincial

Governments as may be necessary in the interest of the provinces themselves and of India as a whole. I admit that it is undesirable for the Government of India and the Provincial Government to compete against one another in the open market as regards their loan operations, and for this purpose, a certain amount of co-operation is necessary on the question of borrowing by the Central Government and the Provincial Governments. The necessity for co-ordination in financial matters arises from the fact that monetary operations are concentrated in two or three large industrial and commercial centres such as Calcutta and Bombay. Many advanced countries of the world, particularly those constituted on a federal basis, reveal a distinct tendency towards a co-ordination in the financial activities of their constituent States.

(7) *Separation of Audit from Accounts.*—I support the separation of Audit from Accounts. I think the experiment has, on the whole, proved a success, and the new system should be extended.

(8) I am strongly opposed to the imposition of any tax on agricultural incomes as I think that such a tax would affect the landlords of these provinces very seriously. The zemindars have passed through a very trying period since the Reforms. There has been a failure in a succession of crops, and they have not been able to realise their normal rent for a number of years. The Oudh Rent Act and the Agra Tenancy Act have deprived them of a large amount of their power, and seriously affected their financial position. Such a proposal will impoverish the zemindars, retard the development of agriculture, and nullify all the effects of the Royal Commission on Agriculture.

(9) I am strongly of the opinion that the Meston Settlement should be scrapped. I recognise the right of the Central Government to demand extraordinary contributions from Provincial Governments in times of war. But contributions should not be a normal feature of any system of financial administration. They will be quite exceptional and may be confined to periods of abnormal difficulty, such as famine, flood, or war.

(10) The Central Government should formulate clear and definite proposals which would work automatically in the case of a demand by it for a contribution from various provinces. There should be no suspicion of favouritism by the Central Government of one province at the expense of others.

(11) At present no Provincial Government has power to levy any tax directly assessed on income or profits, and in actual fact, with the possible exception of *thathameda* in Burma, which is a survival of an ancient regime, no provincial taxes are now assessed directly on profits or income, though the land revenue system in some provinces aims at an assessment based more or less on net assets or profits. The question of control therefore, in the case of provincial taxes of this nature, has not so far had to be actively considered by the Government of India. On the other hand, when constitutional changes are under discussion, it may be argued that there would be considerable justification for retaxing the present absolute restrictions on the levy of such taxes. There are, on the other hand, a large number of local taxes which are profits on income, and under the law as it has stood since the Reforms, the Government of India are powerless to interfere with the imposition of such taxes. Instances of these local taxes are:—

(1) The Chowkidari tax in Bengal and Bihar and Orissa.

(2) The taxes on circumstances and property in Bengal, Bihar and Orissa, Assam, the United Provinces and the Central Provinces.

(3) The cess on mines in Bengal and Bihar and Orissa, which is assessed on the net profits of mines, tramways, forests, etc.

(4) The tax on professions (levied in many provinces) which is assessed on income.

(5) The surcharge of the Central income tax, which may be levied with the approval of the Government of India under the Madras

District Municipalities Act. The Government of India, however, have not sanctioned the levy in any case.

The unrestricted levy of these taxes by local bodies is open to the objection that it is an encroachment on the fiscal sphere of the Central Government, one of whose principal sources of revenue is the income tax, and might in extreme cases lead to multiple taxation. On the other hand, the constitutions of most countries definitely provide for the levy of such taxes by local authorities. In fact, the Central Government in many countries has encouraged this form of taxation for local purposes. For instance:—

(1) In France when the fiscal system was reformed between the years 1917-1920, and four older taxes were replaced by a State income tax, local authorities were empowered to levy *centimes additionnels* on this tax.

(2) In Germany when Dr. Von Miquel introduced his fiscal reforms in 1893 with the assistance of prominent German economists, he stated that one of the three principles underlying these reforms was that expenditure on objects of national importance, such as public safety, public health, primary education, and poor relief, should be defrayed by means of local additions to the State income tax.

(3) In Italy a *surtax* not exceeding 20 per cent. of the general income tax is permitted for local purposes.

(4) Even in England a local income tax as a subsidiary source of local revenue has been strongly advocated by several authorities, and it was seriously considered by the Board of Inland Revenue in 1910.

In India the necessity for providing additional resources for local purposes has been universally recognised, for land, which is the most important source of local revenue in other countries, is almost exclusively taxed by the Provincial Governments, local rural authorities alone being allowed to levy a small cess on the Provincial tax.

The resources of local bodies in these provinces are, however, so small, and the duties imposed upon them by law involve such a large expenditure of money, that the power enjoyed by them to levy taxes of this kind cannot be taken away without a serious loss. I am, therefore, opposed to the taking away of the power of local bodies in this matter.

(12) I may make another suggestion here for the consideration of the Commission. I have stated above that the resources of our local bodies are small, and almost inelastic. They are, however, charged with the performance of numerous duties which are a very serious drain on their limited income. Take, for instance, the problem of compulsory primary education. In Madras, it was estimated on the lowest basis that universal primary education would cost five crores of rupees additional annually, plus a large initial expenditure on schools. Another estimate put it at ten crores a year. The additional cost of universal primary education in these provinces is not likely to be less, and the annual revenue of these provinces is barely 12½ crores. From these figures, it will be clear that it will be quite impossible for the local bodies to carry out such schemes without substantial help. In this connexion a suggestion was made by Mr. Gokhale in a resolution which he moved on March 13, 1912, in the Imperial Legislative Council which is well worth consideration. He said: "The total consideration from land is distributed in an altogether different manner here and in England and France. In England the bulk of the contribution that comes from land goes to local bodies, the Central Government receiving only a very small amount as land-tax. In France more than half the contribution from land goes to local bodies. For the year which I have taken into consideration, for every hundred *centimes* levied by the State from land, there were 130 *centimes* levied by the Communes and Departments together. In this country, however, the division is in the proportion of 16 to 1, the sixteen-seventeenths goes to the State, and only one-seventeenth to local bodies. Now there we have really a serious grievance. I know that it will be said that in this

country the land belongs to the State; but after all it is only a theory, and a mere theory cannot change the character of a fact. And that fact is, that the total contribution from land is distributed in India in a proportion which is most unfair to local bodies. If we could get for our local bodies a much larger share of contribution from land, even if the proportion was not as high as in the West, most of the financial troubles of these bodies will disappear." Professor Bastable in his work on *Public Finance* points out that land is pre-eminently a source from which local taxation must necessarily be largely drawn; he adds that in the rural areas there is hardly anything else from which revenue can be derived by local bodies. It is well known that cesses are levied in these provinces by the Government for local bodies. Anyone who has studied the finances of these bodies will agree that this amount is totally insufficient. I suggest that, in addition to the cess which the local bodies now enjoy, a certain proportion of the land revenue raised by the Local Government from each district should be handed over to the District Board for education, rural sanitation, and medical relief. The proportion may be fixed at, say, 10 per cent. An advantage of this scheme would be that the districts which pay a larger amount of land revenue than others will keep part of it for the development of their education and sanitation.

(13) I regard the separation of Central from Provincial balances as an indispensable preliminary to provincial autonomy. The Reforms Enquiry Committee, which examined the working of the Constitution in 1924, recommended this. The Government of India accepted this recommendation, but were of opinion that the change could not be introduced at a moment's notice, and that the new system must be slowly evolved with all possible "caution". I am of the opinion that in the United Provinces the separation of Accounts from Audit which has been urged as a necessary step in the separation of provincial balance, has been successfully worked. We are, therefore, justified in recommending the separation of Central from Provincial balances.

(14) I have already dealt with the question of grants-in-aid by the Central Government to Local Governments in certain matters, e.g., education, scientific research, roads, etc. In my opinion, the time has come when the Central Government should no longer leave the provinces severely alone as it has done since the Reforms, but should assume duties which no Provincial Government, if left to itself, can perform adequately and satisfactorily. A certain amount of co-ordination seems to me absolutely necessary, otherwise we are likely to dissipate a good deal of our energy and waste a large amount of our revenue. I do not wish to be misunderstood. I do not desire constant interference by the Central Government in provincial affairs, nor do I view with equanimity the prospect of a mature, well-considered, and useful scheme framed by a Provincial Government with the consent of the Provincial Legislature being changed out of recognition by persons who are completely ignorant of provincial needs, provincial feelings, and provincial resources. I do, however, think that matters cannot be allowed to drift in the way they have done in the past, and the Government of India should come forward with a promise of help. The only help that is alluring enough and satisfying enough is financial help. Co-ordination in certain spheres, which are necessary to the building up of a healthy and intelligent electorate, such as primary education, medical and scientific research, construction of roads, etc., is possible through the system of grant-in-aid. The amount of supervision which the Central Government should be allowed to exercise over provincial affairs will depend upon the needs of each province. If a province is very keen on the development of compulsory primary education, and desires help from the Central Government for this purpose, the latter would be perfectly justified in laying down conditions on which such grants-in-aid can be given. It will rightly insist on a certain amount of supervision with a view to finding out whether the amount granted is properly spent or not. The Provincial

Government will have no reason to complain, for it will know beforehand the price of the help which it requires from the Central Government. If it thinks that provincial autonomy is likely to be infringed, it will refuse such a grant. The Central Government cannot thrust a grant-in-aid on a province which, for various reasons, does not desire it. But if a province does accept a grant it will do so with its eyes open, and will, then, have to abide by such conditions as may be imposed by the Central Government. The history of the administration of many of the more advanced countries of the world, particularly those constituted on a federal basis, reveals a distinct tendency towards a co-ordination of the activities of the constituent provinces or States, especially in matters which are of more than provincial importance. I do not disguise the difficulties that are inherent in the extension of the system of grants-in-aid. It is liable to abuse, and will really be like a mixed salad of very curious herbs. But nobody will be obliged to eat it, if he does not like it. Let me quote here a few examples of the manner in which grants are given in countries which enjoy a genuine Federal Constitution, and where provincial or State patriotism is keener than in India:—

Canada.—(*a*) Although roads are essentially a State matter under the Canadian Constitution, the Dominion Parliament, in the interest of the country as a whole, found it necessary to pass the Canadian Highways Act in 1919, which authorised the expenditure of 20 millions during the following five years for the purpose of constructing and improving the highways of Canada. A grant of Rs.80,000 was made to every province during each of the five years, the remainder being allotted in proportion to their respective populations. The co-operation and encouragement of the Dominion Government have done much to raise the standard of road maintenance through the country.

(*b*) The administration of education is entirely a provincial matter under the Constitution, but the Dominion Government, realising the importance of vocational education, has found it necessary to supplement the provincial funds available for these purposes. In 1913 the Agricultural Instruction Act was passed, distributing 10 millions in ten years among the provinces for the advancement of agricultural education. In 1919 a similar sum was voted for technical education, which is distributed among the provinces approximately on a population basis, subject to the condition that the provinces spent at least as much on technical education out of their own revenues. This has given a great impetus to the development of vocational education, particularly in the eastern manufacturing provinces.

(*c*) Public Health Administration is also in the hands of Provincial Governments in Canada, but the Dominion Parliament has, by an Act passed in 1919, created a Dominion Council of Health which co-ordinates the activities of provincial administrations. It meets twice a year to discuss health problems which are of interest to all the provinces and as a result of its efforts there is now greater uniformity in the standards of public health administration.

Even in Australia, where the States have always been jealous of any interference in administrative matters by the Commonwealth Government, there is a distinct tendency towards centralisation and co-ordination of State activities:—

(1) Inter-States Conferences in matters of education are held frequently.

(2) The Commonwealth Government has undertaken the supervision of the treatment for venereal diseases and grants a subsidy of £15,000 per annum to the various States for the provision of hospital treatment for persons suffering from these diseases.

(3) Under the Institute of Science and Industry Act of 1920, the Commonwealth Government is required to establish—

(*a*) a bureau of agriculture;

(*b*) a bureau of industries; and

(*c*) such other bureaux as the Governor-General may determine.

Power is also given for the establishment of a General Advisory Council and advisory boards in each State, to advise the Director in regard to the general business of the institute, and any particular matter of investigation or research. Under the Act, the Director is required to co-operate, so far as is possible, with existing State organisation in the co-ordination of scientific investigation.

These examples will show conclusively that even in Federal Governments wherein the sphere of activity of the Central Government is greatly restricted, need has been felt for the co-ordination of the activities of the Provincial Governments. I am of the opinion that the Central Government should be asked to help in the development of primary education, sanitation, scientific research, roads, and industries. This control will be exercised only in those provinces which apply for grants-in-aid to the Central Government, and will be limited only to that department of the Provincial Government which spends the grant-in-aid. Again, the Central Government allot to the provinces a certain amount from the centrally collected revenues on the basis of their tax-yielding capacity. If a tax on tobacco, for instance, yields a substantial amount in Madras, a part of it should certainly be allotted to that province by the Central Government. This is fair and equitable, and it will act as an incentive to all Provincial Governments. I am strongly opposed to the suggestion, which has been put forward in certain quarters, that a province is entitled to keep every penny of the tax levied on an article which is manufactured in that province. If this principle is applied, it will create a great deal of heartburning and jealousy among the different provinces. I have no objection to the establishment of a National Fund fed from Central Revenues, which would be allocated to nation building services on a test that is definite, unambiguous, and automatic.

I recommend that the financial administration as at present constituted, with particular reference to the distribution of resources between the Central Government and the Local Government, should be maintained, subject to the modifications suggested above.

(17) Suggestions for the Reforms of Local Bodies.

(1) I am strongly of the opinion that the District Boards Act of 1922 should be overhauled. Though this subject had been under the Government's consideration since 1918, the District Boards Bill did not receive sufficient attention in the Council. It is, indeed, clear that the main principles were left unsettled, and the administrative policy was not adequately discussed. "No clear definition of local and provincial functions or of local and provincial finance was made. Not only was there far too little examination before the Bill was framed; but the Bill was rushed through the Council in such a way that only the communal and taxation clauses received adequate discussion. The boards were abruptly deprived of an exceptionally strong substitute for it. No guidance was given to the boards: they were—speaking broadly—left to shift for themselves." (*United Provinces Government's Report to the Indian Statutory Commission.*)

I recommend that the District Boards Act should be amended, and provision made for an efficient executive therein.

(2) I am of the opinion that the Local Government should exercise greater supervision through the system of grants-in-aid. In England grants are made out of sums voted by Parliament to local authorities

for the purpose of meeting a portion of the expenditure on services of national importance, like education, police, etc., and in connection with these grants a high degree of central control is imposed on these bodies. In the words of a well-known authority (Sidney Webb, on "Grants-in-Aid," page 6) on local self-government in England: "The National Government, in the course of three-quarters of a century from 1832 onward, successively brought the rights of inspection, audit, supervision, initiative, criticism and control, in respect of one local service after another, by the grant of annual subventions from the national exchequer in aid of the local finances, and, therefore, in relief of the local ratepayer." Effective provision should be made for inspection, audit, supervision, initiative, criticism, and control of local bodies by the Government. It should appoint its own expert staff of inspectors, who should be charged with the duty of seeing that the grant is properly spent and the object of the Government is not frustrated by any device.

(3) My next suggestion is that all important appointments maintained by local bodies should be made by the Provincial Public Services Commission, who should lay down definite rules regarding their conditions of service, pay, allowances, etc. In the organisation of cadres of services maintained by these bodies, as well as in their gradation and the fixation of their pay and allowances, the Provincial Public Services Commission will consult representatives of local bodies. The sanction of the Commission must be obtained for their appointment and dismissal from such posts. Again, it will be one of the main functions of the Commission to see that the Muslims are adequately represented in these services.

(4) Effective measures should be devised for removing the grievances of the Muslim community in the local bodies of these provinces. Communal wranglings and quarrels in the local bodies have assumed proportions which, unless quickly removed, will make their growth impossible in these provinces. Measures should be devised for the representation of Muslims adequately and effectively in the services maintained by Municipal and District Boards. The number of Muslim teachers should be fixed at 30 per cent.; a proper proportion of contracts should be given to Muslims in all local bodies; Muslim children should be taught in their own language, viz., Urdu; and an adequate share of grants-in-aid should be given to Muslim educational institutions. Nothing should be done by any board against the rights of the Muslim community. Any measures that may be devised for this purpose should not be liable to modification or repeal by any local body.

(5) I recommend the establishment of a Local Self-Government Board which should advise the Minister on broad questions of policy. It should be a representative body, and three-fourths of the members thereof should be elected. It should consist of 15 members, of whom four should be elected by the Municipal Boards, four by the District Boards, three by the Legislative Council, and two by the Chambers of Commerce. The Minister and Secretary of Local Self-Government should be *ex officio* members. It should be a purely advisory body, and should have no power to interfere in the details of administration. It should have, however, greater powers than the present Board of Local Self-Government. It will help the Public Services Commission in the organisation of all the services maintained by local bodies, investigate Local Self-Government problems in other provinces of India, and exchange notes and ideas with persons engaged in this work. It will investigate new lines of development, advise the Minister on any new scheme which he may elaborate, plan surveys, and, finally, keep him in touch with the views of these bodies.

(6) The system of aldermen which has been so successful in England should be introduced in the Municipal Boards of these provinces.

(7) The educational qualifications of candidates for Municipal Boards should be raised. By this means a better type of members for the local bodies will be available.

(8) The relation of the Minister for Education with the local bodies needs readjustment. I am in complete agreement with the recommendation of the Hartog Committee on Education on this point. The present position in this respect is most unsatisfactory. The function of an Education Minister does not consist in acting merely as a conduit pipe. He is not there simply to dole out bright guineas to impecunious boards. He is there to see that the taxpayers' money is properly spent. That he does not do this now, because he is not allowed to do it by existing practice, is well known to all who have had experience of the present system; nor are the effects of this policy, or rather lack of policy, unknown. Means should be devised for the election of Muslims as chairmen of district boards.

(9) Nothing that I have written in this section should be regarded as implying any desire on my part to restrict, limit, abridge, or withdraw any of the privileges, rights, or prerogatives which are now enjoyed by the local bodies. I am, and have always been, of the opinion that unless these bodies enjoy autonomy, our entire scheme of Constitutional Government and our ideal of Dominion Status will never be realised. Local institutions train men not only to work *for* others, but also to work effectively *with* others. Indeed, it may be said without any exaggeration that the best school of democracy, and the best guarantee for its success is the practice of Local Self-Government. My suggestions for the reform of these bodies are based on the principle that the functions of administration should be completely separated from those of deliberation. The one is the work of the Executive, the other is the right of the members of all deliberative assemblies, whether a Legislature or a local board. It is the harmonious combination of these two elements in the local bodies of England which has made Local Self-Government such a striking success there. As President Lowell remarks: "In order to produce really good results, and avoid the dangers of inefficiency on the one hand and of bureaucracy on the other, it is necessary to have in any administration a proper combination of experts and men of the world." While the local authorities should have autonomy, they should by no means be free to act as they like, and the Provincial Government should be alert both to *restrain* and to *stimulate*.

CHAPTER II.

COMMUNAL REPRESENTATION IN THE INDIAN LEGISLATURE.

(1) Significance of this System to the Muslim Community.

The Muslim community has been given the right of electing its own members by a system of separate electorates. In this system the electors are in general constituencies divided into Muslims and non-Muslims, and the seats for the two are fixed. In the United Provinces Legislative Council they are entitled to elect their own members to the Legislature, and the electoral rolls are also separate. This system is called the system of separate electorates, or the system of communal representation. The Muslims regard it as a necessary safeguard for the protection of their interests. They feel that if it is abolished they will disappear from the public life of their country, as the majority community possesses an overwhelming majority in seven out of the nine provinces, and Muslims form only 14.28 per cent. of the population of the United Provinces, 6.70 of Madras, 4.05 of Central Provinces and Berar, 19.7 of Bombay, 18.85 of Bihar and Orissa, and 28.96 of Assam. Only in two provinces, viz., the Punjab, where they form 55.33 per cent., and Bengal,

where their percentage is 3.99, do they possess a majority. Yet their majority in the two provinces is very small indeed when compared with the overwhelming majority of Hindus in the other seven provinces. The Muslims, therefore, fear that if separate electorate is abolished they will be simply swamped by Hindu voters, and few Muslims will have any chance of election. This fear has been realised in those places where the system of joint electorate obtains, and few Muslims have been elected from such constituencies.

(2) The History of Communal Representation in India. Muslim Deputation to Lord Minto.

The first step in the direction of associating Indians with the business of legislation was taken with the passing of the Indian Councils Act, 1892. Even at that period the Government of India recognised the importance of the representation of various interests in the Legislature. It will not be an exaggeration to say that the principle of representation by interest was the foundation upon which the non-official elements in the Council rested. The Government of India defined for each province the classes which were of sufficient importance to require representation. Thus, in the province of Bengal, the classes to which the Government of India considered that representation should be secured comprised communities (for instance, Hindus, Muslims and Europeans), classes (for instance the urban, the rural, and professional classes), and interests (for instance, commercial interests). Briefly, it may be said that in 1892 the Provincial Legislative Councils were constituted with a view to making them representative of the more important communities, classes and interests, but the regulations under section 1 (4) of the Indian Councils Act of 1892 did not themselves recognise communal divisions. The Act gave representation to provinces, and left communal and class representation to be secured by direct nomination.

Lord Minto assumed office as the Viceroy and Governor-General of India in November, 1905. In August, 1906, a committee of the Executive Council of the Governor-General was constituted to consider suggestions for reform. While the Committee was at work, a most representative deputation of the Muslims of India, headed by the leader of the Indian Muslims, His Highness the Aga Khan, waited upon His Excellency the Viceroy on 1st October, 1906. The deputation represented all classes of the Muslim community, and voiced the feelings of Indian Muslims on constitutional reforms in India. In their address to the Viceroy the deputation drew his attention to the following important points:—

(1) That in the whole of India the Muslims number over 62 millions, or between one-fifth and one-fourth of the total population;

(2) that if Animists and depressed classes ordinarily classed as Hindus, but not properly Hindus, were deducted, the proportion of Muslims to Hindus would be larger than is commonly shown;

(3) that as their numbers exceed the entire population of any first class European Power, except Russia, Muslims might justly claim adequate recognition as an important factor in the State;

(4) that the position accorded to the Muslim community in any kind of representation, direct or indirect, and in all other ways affecting their status and influence, should be commensurate not merely with their numerical strength, but also with their political importance and the value of the contribution which they make to the defence of the Empire;

(5) that the representation hitherto accorded to them, almost entirely by nomination, had been inadequate to their requirements, and had not always carried with it the approval of those whom the nominees were selected to represent;

(6) that while Muslims are a distinct community with additional interests of their own, which are not shared by other communities,

no Muslim would ever be returned by the existing electoral bodies, unless he worked in sympathy with the Hindu majority in all matters of importance.

The deputation made the following specific proposals on behalf of the Indian Muslims:—

(*a*) That in the case of Municipal and District Boards the number of Hindus and Muslims entitled to seats should be declared, such proportion being determined in accordance with the numerical strength, social status, local influence, and special requirements of either community, and that each community should be allowed to return its own representatives, as in the Aligarh Municipality, and in many towns in the Punjab;

(*b*) that in the case of senates and syndicates of Indian Universities there should, as far as possible, be an authoritative declaration of the proportion in which the Muslims are entitled to be represented in either body;

(*c*) that in the case of the Provincial Legislative Councils the proportion of Muslim representatives should be determined and declared with due regard to the considerations noted above, and that the important Muslim landlords, lawyers, and merchants and representatives of other important interests, the Muslim members of the district boards and municipalities and the Muslim graduates of universities of a certain standing, say five years, should be formed into electoral colleges, and be authorised to return the number of members that may be declared to be eligible.

(*d*) For their representation in the Imperial Legislative Council they suggested—

(i) That the proportion of Muslims should not be determined on the basis of numerical strength, and that they should never be an ineffective minority;

(ii) that, as far as possible, appointment by election should be given preference over nominations;

(iii) that for the purpose of choosing Muslim members Muslim landowners, lawyers, and merchants, and representatives of every important interest of a status to be subsequently determined by Government, Muslim members of Provincial Legislative Councils, and Muslim Fellows of Universities should be invested with electoral powers.

(3) Lord Minto's Reply.

The reply of His Excellency the Viceroy to this address is regarded, and let me add justly regarded, as the charter of Muslim liberties. On that occasion Lord Minto clearly and unequivocably formulated the policy of his Government in no uncertain terms. He said:—

"The pith of your address, as I understand it, is a claim that under any system of representation, whether it affects a municipality or a district board or a legislative council, in which it is proposed to introduce or increase an electoral organisation, the Muslim community should be represented as a community. You point out that in many cases electoral bodies, as now constituted, cannot be expected to return a Muslim candidate, and that, if by chance they did so, it could only be at the sacrifice of such a candidate's views, to those of majority opposed to his community whom he would in no way represent, and you justly claim that your position should be estimated not only on your numerical strength, but in respect to the political importance of your community and the service it has rendered to the Empire. I am entirely in accord with you. Please do not misunderstand me. I make no attempt to indicate by what means the representation of communities can be obtained, but I am as firmly convinced as I believe you to *be that any electoral representation in*

India would be doomed to mischievous failure which aimed at granting a personal enfranchisement regardless of the belief and traditions of the communities composing the population of this continent."

(4) Discussion on it in India.

The committee of the Executive Council of the Governor-General which had been appointed in August, 1906, carefully considered the problem of Muslim representation, and collected data on the representation of Muslims in the existing Legislatures. The committee found that Muslims had not been sufficiently represented in the councils; that "the few elected members had not been fully representative," and that nomination had failed to secure the appointment of Muslims of the class desired by the community. In order to remove these grievances they considered two measures necessary. In the first place, they suggested that, in addition to the small number of Muslims who might be able to secure election in the ordinary manner, a certain number of seats should be assigned to be filled exclusively by Muslims; and, secondly, for the purpose of filling those seats, or a proportion of them, a separate Muslim electorate should be formed. The committee made no specific proposals as to the number of seats to be assigned to the Muslims in Provincial Legislative Councils, but suggested an electorate comprising payers of land revenue and income-tax and registered graduates of the universities. As regards the Imperial Legislative Council they thought that a total strength of six or perhaps seven members in a council of 46 would not be an excessive proportion for a community of such importance.

Accordingly they proposed that four seats should be set apart for Muslims, two to be elected in rotation by Bengal, Eastern Bengal and Assam, United Provinces and the Punjab and Bombay, and two to be filled by nomination by the Viceroy. For the elected seats they suggested an electorate consisting of the Muslim non-official members of the Provincial Legislative Councils, the Muslim Fellows of the Universities and Muslims paying income-tax or land revenue above a certain figure.

(5) Lord Morley's Promise.

Meanwhile, discussions had been carried on by various parties in the country with regard to the method by which Muslim representation could be secured. A certain section had suggested mixed electoral colleges for the purpose, but the Muslims were practically unanimous against the suggestion, and the London branch of the All-India Muslim League, headed by the late Right Honourable Ameer Ali, placed the Muslim views before Lord Morley, the then Secretary of State for India. The Second Reading of the Bill was moved by the latter in the House of Lords on 23rd February, 1909. In the course of his speech Lord Morley said: "The Muslims demand three things. I had the pleasure of receiving a deputation from them, and I know very well what is in their minds. They demand an election of their own representatives to these councils in all the stages just as in Cyprus, where I think the Muslims vote by themselves; they have nine votes and the non-Muslims have three, or the other way about; so in Bohemia, where the Germans vote alone, and have their own register; therefore we are not without a precedent and parallel for the idea of a separate register. Secondly, they want a number of seats in excess of their numerical strength. These two demands we are quite ready and intend to meet in full."

(6) Mr. Asquith's Promise.

It is pertinent to quote here the statement of policy made by the Liberal Prime Minister, Lord Oxford, on behalf of the British Government in the House of Commons, in 1909, in the debate on the Government of India Bill of 1909 on separate electorate. The Muslims of India attach very great importance to this statement:—

"*Undoubtedly there will be a separate register for Muslims. To us here at first sight it looks an objectionable thing, because it discriminates*

between people, and segregates them into classes on the basis of religious creeds. I do not think this is a very formidable objection. The distinction between Muslim and Hindu is not merely religious, but it cuts deep down into the traditions of the historic past, and is also differentiated by the habits and social customs of the community."

The views of Mr. Gokhale on this subject also deserve mention. He was the leader of the Nationalist party, and his sound views on this problem went far towards reconciling the Muslims to constitutional reforms. Indeed, there is no evidence to show that Muslims as such were opposed to the Reforms. On the contrary, they made it clear then, as they have made it perfectly clear since, that they desire the constitutional advance of their motherland, provided their interests are properly safeguarded. A careful perusal of Mr. Gokhale's speech in the Imperial Legislative Council, on 29th March, 1909, will show that his views on the subject were practically the same as those of the Government of India. He said: "I think the most reasonable plan is first to throw open a substantial minimum of seats to election on a territorial basis in which all qualified to vote should take part without distinction of race or creed, and then supplementary elections should be held for minorities which numerically or otherwise are important enough to need special representation, and those should be confined to members of minorities only."

(7) Effects of the System.

The result then of the Morley-Minto Reforms was that the constitution of the Provincial Legislative Councils was based upon a system of representation of classes and interests, consisting of basic constituencies representing landholders, groups of district boards, and groups of municipalities. There were no territorial constituencies properly so called, but the three presidency corporations returned special repesentatives, and except in their case, no individual town or city had its own special member. To these basic classes were added representatives of universities, Chambers of Commerce, trades associations, and other like interests, the members returned being in the great majority of cases elected, but in some few instances nominated. On these constituencies there were super-imposed certain special Muslim electorates. Thus besides voting in their own special constituencies Muslims also voted in the general electorates, to counterpoise which these constituencies were themselves created. These special Muslim constituencies were on a territorial basis in the sense only that the province was divided territorially for the purpose of the election of Muslim representatives. Thus the Bombay Presidency was divided into four "areas" (they were not described as constituencies in the electoral rules), namely, the Southern, Northern and Central Divisions and the city of Bombay.

(8) Congress Muslim League Compact of 1916.

The next stage in the history of communal representation is the Congress-Muslim Compact of December, 1916. The scheme relating to the communal representation of Muslims was approved by the Indian National Congress and the All-India Muslim League in 1916. It is as follows:—

Adequate provision should be made for the representation of important minorities by election, and the Muslims should be represented through special electorates on the Provincial Legislative Councils in the following proportions:—

Punjab	One-half of the elected Indian members.
United Provinces	30 per cent.
Bengal	40 per cent.
Bihar and Orissa	25 per cent.
Central Provinces	15 per cent.
Madras	15 per cent.
Bombay	One-third.

With regard to the Central Legislature the scheme proposed:—

(1) that its strength should be 150;

(2) that four-fifths of the members should be elected; and

(3) that the franchise should be widened, as far as possible, on the lines of the Muslim electorates, and the elected members of the Provincial Legislative Councils should form an electorate for the return of members to the Imperial Legislative Council.

The Montagu-Chelmsford Report discussed the question of separate electorate in paragraphs 227 to 230, and regarded it as "the most difficult problem which arises in connexion with elected assemblies." While they held that communal electorates "were opposed to the teachings of history, perpetuated class divisions, and stereotyped existing relations," they were obliged to say: "So far as the Muslims are concerned, the present system must be maintained until conditions alter, even at the price of a slower progress towards the realisation of common citizenship." They recommended, however, that communal representation should not be established in any province where they formed a majority of voters. As Muslims do not form the majority of voters in any province of India, communal electorates were allowed to Muslims of all provinces of British India.

(9) The Report of the Southborough Committee of 1919.

The Southborough Committee recommended separate communal seats for Muslims, Sikhs, and European commerce in the Assembly, and for the Muslims and Sikhs in the Council of State.

The Joint Select Committee of the Houses of Parliament scrupulously avoided the arguments for and against communal electorates, and

(1) accepted the recommendations of the Southborough Committee regarding the representation of Muslims in the Legislatures;

(2) extended the principle by providing for separate representation of non-Brahmins in the Madras Presidency, and of Marathas in the Bombay Presidency, by reservation of seats.

In the House of Lords Lord Curzon congratulated the Joint Select Committee on "extending in some quarters communal representation."

It is important to note that the Act of 1919 *provided for separate electorate not only for Muslims but also for the Sikhs in the Punjab, Indian Christians in Madras, Anglo-Indians in Madras and Bengal, and Europeans in the three Presidencies, the United Provinces, and Bihar and Orissa. Moreover, it provided for separate electorate by means of reservation of seats for non-Brahmins in Madras and Marathas in Bombay.*

Let me summarise the growth of this system:—

(1) Muslims have been definitely promised separate electorate for the last 23 years.

(2) This promise has been made not only by the Governor-General of India and the Secretary of State for India, but also by Lord Asquith, the Liberal Prime Minister, on behalf of the British Government.

(10) Why do Muslims demand Separate Electorate?

Reasons for Separate Electorate.

The reasons for separate electorate are—

(1) They preclude all possibility of communal bitterness. Before the Reforms there were sometimes free fights between Hindus and Muslims in the Punjab, where mixed electorate prevailed. Mr. Chintamani admitted before the Reforms Enquiry Committee on August 18th, 1924, that they had "eased the situation." Sir Tej

Bahadur Sapru and practically all the Hindu leaders did not oppose separate electorate till the end of 1924. Opposition to it grew only after the Hindu Mahasabha had organised its propaganda among the Hindus of every province. The Hindu Swarajists, no less than the Hindu Liberals, *then* began to oppose it.

(2) The Muslims are educationally backward and their economic condition is unsatisfactory. The number of Muslims elected by joint electorate will be very small, and those who succeed in election will be completely under the influence of Hindu landlords and capitalists.

(3) There is unfortunately lack of confidence and trust among members of the two communities.

(4) The experience of joint electorate since the Reforms has convinced the Muslim community that it has no chance of election from general constituencies. I cannot deal with the subject exhaustively, as this problem has been discussed in the U. P. Muslims' Representation to the Statutory Commission.

(11) Are Separate Electorates Democratic?

There is, however, one point to which I would particularly like to draw your attention, and it is this. It is sometimes said that communal representation is undemocratic, as it is supposed to divide the two communities into water-tight compartments. Anyone who compares the system of separate electorate with the system of proportional representation will be forced to acknowledge that in principle there is little difference between the two. Let me make my position perfectly clear. I admit that the system of communal representation is a child of necessity. It is not an ideal system, and I look forward to the day when the need for it will not be felt by my community. It ought to be the aim of every Indian to work for this end. Muslims cannot, however, abandon it at the present time, as they are convinced that if it is abolished now, it will place them in a position from which which they will never recover. This is due to our experience of the working of the system of general electorate in those constituencies in which such an electorate has been established. In almost every case the Hindus command much greater voting strength and Muslim candidates have little chance of election. The Muslims are firmly of the opinion that its abolition at the present juncture, or at any time, without their consent, will be disastrous to the peace and quiet of this country. They believe that it is the sheet anchor of their politics, and they are resolved upon maintaining it. I do not exaggerate when I say that if, at the present time, this vital safeguard is taken away, and Muslims are deprived of a right which has been promised to them by the British Government, India will be thrown into a vortex of communal strife, from which it will take her a long time to recover.

(12) Proportional Representation compared with Separate Electorate.

In nearly every modern European constitution provision is made for proportional representation. The object of this plan is precisely the same as that of separate electorates, though in appearance they look quite different systems altogether. It is deliberately planned with a view to affording protection to a minority, and is advocated solely on the ground that it will enable a minority to return its representatives to the legislative, local, and other bodies.

Through it the minority organises itself, and votes only for its own candidates. If the system is well devised, there is every justification for believing that the percentage of members elected by a party will correspond exactly to the percentage of votes by that party at that election. That this contention is correct will be clear from the results of elections in Tasmania for 1909, 1912, 1913 and 1916.

Results of Tasmanian Elections.

Year of Election.	Party.	Votes.	Seats in proportion to Votes.	Seats actually obtained.
1909 ...	Labour	19,067	11·69	12
1909 ...	Liberal	29,893	18·31	18
1912 ...	Labour	33,634	13·66	14
1912 ...	Liberal	40,252	16·39	16
1913 ...	Labour	31,633	13·79	14
1913 ...	Liberal	36,157	15·78	16
1913 ...	Independent	977	0·43	—
1916 ...	Labour	33,200	13·93	14
1916 ...	Liberal	35,398	15·27	15
1916 ...	Independent	1,817	0·80	1

These figures show conclusively how thoroughly and justly a well-devised scheme of proportional representation works.

The results of general election in the Irish Free State and in Scotland for the Glasgow education authorities show how equitable and fair is the representation of various parties under the system. I quote them from the publications of the Proportional Representation Society of England.

The figures for the Irish Free State (June, 1927) are—

Irish Free State Election, June, 1927.

(All seats contested.)

Party.	Votes.	Seats won.	Seats in proportion to Votes.
Government	314,684	46	42
Finana Fail	299,626	44	40
Labour	143,987	22	19
Independents	199,679	14	19
Farmers	109,114	11	14
National League	84,048	8	11
Sinn Fein and others	56,218	7	7

Glasgow Education Authority, March, 1928.

(All seats contested.)

Party.	Votes.	Seats won.	Seats in proportion to Votes
Moderate	146,784	30	29·5
Catholic	52,551	11	10·5
Labour	23,151	4	4·8
Communist	1,137	—	0·2

In the Irish Free State each of the largest parties received slightly more than its strictly proportionate share. This is in accord with the experience in other elections held under the system of proportional representation in constituencies of small or moderate size. There has been no suppression of any considerable body of opinion; on the other hand, small groups have not been given an exaggerated importance.

The German system is very elaborate and complex, but the object is essentially the same. According to Mr. Brunet, one of the ablest commentators of the new German Constitution, in this system, the number of members, instead of being fixed according to the number of population, or of the electors, depends upon the number of those actually voting, in such a way that not until after the election can one count the number of members that will make up an assembly. There are no constituencies in the modern sense of the term. Voters must vote on a party ticket, which contains a list of candidates approved by the party. The electors make no change in the personnel, as the party ticket must be voted as a whole. The results of the election completely justified the hopes of its authors. In the election of June 6, 1920, the Social Democrats polled 21.6 per cent. of the votes, and secured 22.2 per cent. of the seats. The Independent Socialists with 18.3 of the votes secured 19.1 per cent. of the seats. A recent work on the new constitutions of Europe contains the following statement: "In one respect all of the new constitutions (of Europe) agree. They provide for the application of the principle of proportional representation." Before the War it was applied to the election of one or both Houses of the national Legislature of Denmark (partially), Belgium, Sweden, Bulgaria, Servia and Portugal, and to the election of the Inner Chamber in the Grand Duchy of Finland. During the War it was extended to Denmark, and adopted in Germany, France, Italy, Czechoslovakia, Australia, Jugo-Slavia, Switzerland, Poland, Danzig, Esthonia, and Greece.

The facts cited above show conclusively that minorities are protected by this device provided they are organised in parties and have attained a certain educational level.

(13) Difference between Proportional Representation and Separate Electorate.

Now the difference between separate electorate and proportional representation is one of method and not of principle. In the former the minority is organised in a separate electoral roll. In the latter it is organised in well-disciplined, well-trained, and intelligent political parties. Both of them operate in precisely the same way. In both of them the members of political, agrarian or religious minority parties and also, of course, the majority parties vote only for their candidates. If it is objected that this system keeps the two religions apart, and creates parties in India which ought to be based on identity of political creed, the answer is, firstly, that religion in India dominates every sphere of one's life; and, in the second place, parties based on community of religious belief have played, are playing, and will continue to play, a very large part in Europe. In Ireland an overwhelming number of the Nationalist party were Catholics. In Germany the Centre Party, which is a party of Roman Catholics, has been a religious party through and through. In Jugo-Slavia the Bosnian Muslims return their own members through the device of proportional representation, while other races are also represented in the legislature. In Spain, Poland and other countries, where the voters are Catholics, very few who are not Catholics stand any chance of election to Parliament. In Belgium and Holland the Clerical Party wields enormous power, and has just formed a Government by a coalition with the Liberals. Whether such parties should exist or not is an entirely different question. The point is that such parties do exist, and a statesman must take the facts as they are. All these parties secure the representation of their leaders in Parliament by the device of

proportional representation. If this is so, if all minorities really vote only for those persons who represent their interests, and succeed in getting the same percentage of seats as the percentage of votes cast by them in the elections, why should separate electorates be condemned? If separate electorate causes friction, perpetuates division, and keeps up communal parties, so does proportional representation. In both systems the minority is guaranteed its representation. In the one, however, the seats are fixed, while in the other the same result is brought about, and the same number of members returned to the Legislatures by a slightly different method, the method of single transferable vote, or other forms of proportional representation. If, therefore, it is desirable to do away with separate electorate, it is still more desirable to induce European countries to scrap their constitutions. If it is said that separate electoral rolls keep the two communities aloof, our answer is, first that, constituted as Indian society is at the present moment, hampered as it is by the impenetrable barrier of the caste system which forbids intermarriage and inter-dining, which enjoins *chhut-chhat* upon all castes. Since the Reforms very few members of the depressed classes have been elected by caste Hindus to any municipal or district board, or to any Legislature, in spite of the fact that elections to thousands of seats for these elective bodies have taken place in India. Most important of all, the electors are hopelessly illiterate, and have not acquired those habits of discipline and compromise which are a *sine qua non* of parliamentary government.

Under these circumstances it is not practical politics of a common electoral roll. For the only result of such a scheme would be that Muslims would disappear from all the Legislatures and local bodies, as they have no party organisation, and are in a hopeless minority in seven out of the nine provinces of British India. Proportional representation can succeed only if (1) there are well-organised parties; (2) there are plural member constituencies; (3) the voters are not illiterates and possess a fair level of intelligence; (4) and the minority is not scattered. None of these conditions exist in India. It is sometimes suggested that we might form a common or joint electorate in India, with a fixed reservation of seats for the minorities. A moment's reflection will convince anyone that this is even worse than the system of election by proportional representation. For Muslims are in a hopeless minority in seven out of the nine provinces of British India, and the Hindus can—and I am perfectly convinced they *will*—so organise themselves as completely to ignore the influence of Muslim votes on the election of Hindu members from joint constituencies. On the other hand, their effect on the elections of Muslim members will be decisive. Take the case of Madras, Central Provinces, United Provinces, and Bihar and Orissa. In the United Provinces Muslims form 14.28 per cent. of the population. In elections the 80 or 82 per cent. of Hindu voters will return a Hindu member, who will be their genuine representative. In the case of election of a Muhammadan member the 80 per cent. of Hindu votes will be decisive, and the 14 per cent. of Muslim votes will be practically useless. Hence, while Hindu members will be genuine representatives of the Hindus, the Muslim member will be simply their puppet, as he will be returned practically by Hindu votes. Indeed, this device is a negation of the principle of proportional representation. For the latter system guarantees the election of representatives of minorities, who are only elected by the votes of the minority communities. This is, indeed, the essence of all systems of proportional representation. It deliberately and systematically gives the minority opportunity of voting for and electing its own representatives by its votes alone. In the case of a joint electorate, with a fixed reservation of seats, this right is completely taken away from the hands of the minority community. It is told, in effect: "Yes, you will have a representative in the Legislature; but your representative will not be elected by you, but by the other party."

If a representative is not elected by a party, how can he be said to represent that party? This method is so illogical and contradictory, is so completely opposed to all systems of minority representation which have been embodied in all European constitutions, that I am perfectly certain it will be unanimously opposed by all who have studied either Indian conditions or European constitutions. If a Muslim is elected by non-Muslim votes and is called by the Hindus a representative of our community, it will serve to make the entire scheme of the constitution absolutely unworkable. It will provide a recurring cause of friction, quarrels and even riots between the Hindus and the Muslims and the Government.

I do not think it is necessary for me to emphasise the need for the representation of our community in the Legislature and local and other bodies. It is well known that the conception of a territorial parliament, in which numerous important and essential interests and functions are not adequately represented, is being attacked by a number of influential writers. I need only refer to the works of persons like G. H. D. Cole, Sydney Webb and Dr. Harold Laski, who have attacked the theory of sovereignty, which has hitherto been regarded as the foundation of all modern theories of the State, and who desire a representation of people on the basis of functions. I cite this to emphasise the point that the conception of a territorial parliament, which is supposed to represent all interests and classes, is being slowly modified. The Legislature in India should include representatives not merely of territories, but also of communities and of interests. I am convinced that unless Muslims secure representation in the Legislatures the latter will become close corporations, and will be manipulated by a narrow oligarchy in its own interest.

(14) CONCLUSION.—RESOLUTIONS OF THE ALL-INDIA MUSLIM LEAGUE AND THE MUSLIM PARTIES CONFERENCE.

I will conclude this note by pointing out that the Muslim community is practically unanimously of the opinion that separate electorate is absolutely vital to its existence.

I may quote here a part of the resolution which I moved at the Lahore session of the All-India Muslim League in December, 1927:—

Resolution 1 (*d*).—" The idea of joint electorates, whether with or without a specified number of seats, being unacceptable to Indian Muslims, on the ground of its being wholly inadequate to achieve the object of effective representation of various communal groups, the representation of the Indian Muhammadans shall continue to be by means of separate electorates, as at present, provided that it shall be open to any community at any time to abandon its separate electorates in favour of joint electorates."

The political programme of Indian Muslims is embodied in the resolution passed on January 1, 1929, by the All-India Muslim Conference held at Delhi. The Conference was held under the presidency of a great leader of the Indian Muslims, His Highness the Aga Khan, and was one of the most representative gatherings of Muslim India.

Muslim India supports this resolution practically unanimously.

The relevant portions of the Resolution are:—

" (2) Whereas the right of the Muslim community to elect its representatives on the various Indian Legislatures through separate electorates is now the law of the land, and the Muslim community cannot be deprived of that right without its consent, and whereas, in the conditions existing at present in India, and so long as these conditions continue to exist, the representation in the various Legislatures and other Statutory Self-Governing Bodies of Muslim community, through its own separate electorates, is essential, in order to bring into existence really representative democratic government, and, so long as the Musalmans are

not satisfied that their rights and interests are adequately safeguarded in the constitution, they will in no way consent to the establishment of joint electorates whether with or without conditions; and

" (3) whereas, it is essential that the representation of the Musalmans in the various Legislatures and other statutory self-governing bodies should be based on a plan whereby the Muslim majority in those provinces where the Musalmans constitute a majority of the population, shall in no way be affected, and in the provinces in which the Musalmans constitute a minority they should have a representation in no case less than that enjoyed by them under the existing law; and

" (4) whereas, representative Musalman gatherings in all the provinces in India have unanimously resolved that with a view to provide an adequate safeguard for the protection of Muslim interests in India as a whole, the Musalmans should have the right of one-third representation in the Central Legislature and this conference entirely endorses this demand; and

" (5) whereas, for the purposes aforesaid, it is essential that Musalmans should have their due share in the Central and Provincial Cabinets; and

" (6) whereas it is essential that no bill, resolution, motion or amendment regarding intercommunal matters shall be moved, discussed, or passed in any Legislature, Central or Provincial, if a three-fourths majority of the members of either the Hindu or Muslim community affected thereby in that Legislature oppose the introduction, discussion, or passing of such bill, resolution, motion or amendment; and

" (7) whereas, on ethnological, linguistic, geographical and administrative grounds, the province of Sind has no affinity whatever with the rest of the Bombay Presidency, and its unconditional constitution into a separate province, possessing its own separate Legislative and Administrative machinery on the same lines as in the other provinces of India is essential in the interests of its people, the Hindu minority in Sind being given adequate and effective representation in excess of their proportion in the population as may be given to the Musalmans in the provinces in which they constitute a minority of the population; and

" (8) whereas, it is essential, in the interests of the Indian administration, that provision should be made in the constitution giving the Musalmans their adequate share along with other Indians in all the services of the State and of all statutory self-governing bodies, having due regard to the requirements of efficiency; and

" (9) whereas, the introduction of constitutional reforms in the North-West Frontier Province and Baluchistan, along such lines as may be adopted in other provinces of India, is essential not only in the interest of those provinces but also of constitutional advance of India as a whole, the Hindu minorities in those provinces being given adequate and effective representation in excess of their proportion in the population, as is given to the Muslim community in the provinces in which it constitutes a minority of the population; and

" (10) whereas, having regard to the socio-political conditions obtaining in India, it is essential that the Indian constitution should embody adequate safeguards for the protection of Muslim culture, and for the protection and promotion of Muslim education, language, religion, personal law, and Muslim charitable institutions, and for their due share in grants-in-aid; and

" (11) whereas, it is essential that the constitution should provide that no change in the Indian constitution, after its inauguration, be made by the Central Legislature, except with the concurrence of all the States constituting the Indian Federation; and

" (12) this conference emphatically declares that no constitution, by whomsoever proposed or devised, will be acceptable to the Indian Musalmans unless it conforms to the principles embodied in this Resolution."

This resolution summarises the demands of Indian Muslims admirably, and has the support of my community.

CHAPTER III.

WHAT ARE THE RIGHTS OF MINORITIES?

(1) History of the Problem.

The European Powers have been familiar with the difficulties of the problem of minorities since the Treaty of Vienna, 1814. As a result of the gradual dissolution of the Turkish Empire there had, during the nineteenth century, been established in Europe five new States—Greece, Serbia, Roumania, Bulgaria, and Montenegro. In each case the recognition of these States had been the subject of consultation between the Great Powers of Europe, and had been accompanied by certain conditions, the object of which was to insure religious freedom, and to prevent the newly-established States from interfering unduly with the freedom of commercial intercourse. These were incorporated in treaties, to which some or all of the Great Powers were parties. Again, in 1863, when a change of dynasty took place, and when the Ionian Islands were ceded to Greece, the new arrangements were embodied in a separate treaty between Great Britain, France, Russia and Denmark, in which this principle was re-affirmed. Both at the Congress of Paris and the Congress of Berlin of 1878 the application of these principles was not neglected, though their form was different. As Mr. Temperley points out, it may be said without any hesitation that by the end of the nineteenth century whenever a new State arose the European Powers assumed the right of imposing upon it certain principles of government, which had come to hold the position of *fundamental principles*, to which all civilised governments conformed. The Peace Conference of Paris, 1919, carried out these principles to their logical conclusion. The whole of the east and south-east of Europe was re-arranged; not only were the Turkish Dominions further reduced, but the Austro-Hungarian Empire had ceased to exist. Two new States were created—Poland and Czechoslovakia, and to others very great additions of territory were awarded. In the very nature of things it was inevitable that in every case these States were assigned considerable population, alien in race, language, and religion. Some guarantee, some security, must be provided that they should not be subjected to injustice, that they should not be deprived of their political rights, nor exposed to persecution. In some districts languages, races, and religions were so closely intermingled that the population of a single village might be divided between three classes. The principles underlying the policy of the Allies towards the minorities were clearly enunciated by Monsieur Clemenceau in a letter, dated June 24, 1919, addressed to the President of the Polish Republic. One extract from this letter will make the position of the Great Powers clear:—

"The situation with which the Powers have now to deal is new, and experience has shown that new provisions are necessary. The territories, now being transferred both to Poland and to other States, inevitably include a large population speaking languages and belonging to races different from that of the people with whom they will be incorporated. Unfortunately the races have been estranged by long years of bitter hostility. It is believed that these populations will be more easily reconciled to their new position if they know that from the very beginning they have assured protection and adequate guarantees against any danger of unjust treatment or oppression."

(2) What are the Safeguards for Minorities?

The earliest case in which the rights of minorities were guaranteed by a treaty is that of the United Netherlands. This kingdom was created by the Congress of Vienna in 1814, and Catholic Belgium was united with Protestant Holland. The "Eight Articles" guaranteed religious freedom to all creeds, and the admissibility of all citizens to public offices and dignities. The Kingdom of Greece was created in 1830 by a Protocol

signed by Great Britain, France, and Russia. The Protocol guaranteed religious freedom, and provided that all citizens shall be admissible to all public offices. The Protocol of the Congress of Constantinople of 1856, which established Moldavia and Wallachia as independent principalities, declared that all religions enjoyed equal liberty and equal protection in the two principalities. The Congress of Berlin, 1878, guaranteed protection to Jews and Muslims in the newly-created Balkan States.

It was, however, at the Peace Conference of Paris, in 1919, that the rights of minorities were adequately and effectively guaranteed. The difference between the earlier treaties, and the treaties signed in 1919, lay precisely in this, that while the former were concerned mainly with the establishment of religious freedom, the latter attempted a solution of those problems of race, language, education, and administration to which the existence of different races, religions, and languages in a State always gives rise. The earlier treaties confined themselves to the provision of freedom of conscience. This was, of course, a great advance on the doctrines propounded by the Treaty of Westphalia in 1640, which stated practically that the religions of princes determined the religious belief of their subjects. But modern world demands more than bare religious toleration. The proposals of the Great Powers were vehemently opposed by the new States. Poland protested strongly against it; Roumania put up a stubborn fight, while other Powers contended that it was an unjustifiable interference with the independence of sovereign States. The reply to M. Venezelos' contention that a supplementary minorities Protocol between Greece and Bulgaria was derogatory to the sovereignty of Greece was effectively given by Sir Austen Chamberlain, who stated that " the States which admitted these obligations admitted a restraint on their rights of sovereignty."

The principle on which all treaties is this that in the act of assigning new territories to an already existing State the Powers lay down conditions on which they transfer territories to such States. The following example of the Treaty with Poland will show clearly the scope and method adopted in these Treaties.

Article 7.

All Polish nationals shall be equal before the law, and shall enjoy the same civil and political rights, without distinction as to race, language, or religion.

Differences of religion, creed, or confession shall not prejudice any Polish national in matters relating to the enjoyment of civil or political rights, as, for instance, admission to public employments, functions, and honours, or the exercise of professions and industries.

No restriction shall be imposed on the free use by any Polish national of any language in private intercourse, in commerce, in religion, in the Press, or in publication of any kind, or at any public meetings.

Notwithstanding any establishment by the Polish Government of any official language adequate facilities shall be given to Polish nationals of non-Polish speech for the use of their language, either orally or in writing before the courts.

Article 8.

Polish nationals who belong to racial, religious, or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Polish nationals. In particular they shall have an equal right to establish, manage, and control at their own expense charitable, religious, and social institutions, schools, and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

Article 9.

Poland will provide in the public educational system in towns and districts in which a considerable proportion of Polish nationals of other than

Polish speech are residents, adequate facilities for ensuring that in the primary schools the instruction shall be given to the children of such Polish nationals through the medium of their own language. This provision shall not prevent the Polish Government from making the teaching of the Polish language obligatory in the said schools.

In towns and districts where there is a considerable proportion of Polish nationals belonging to racial, religious, or linguistic minorities, these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the *State, municipal, or other budget* for educational, religious or charitable purposes.

The provisions of this Article shall apply to Polish citizens of German speech only in that part of Poland which was German territory on 1st August, 1914.

Article 10.

Educational committees appointed locally by the Jewish communities of Poland will, subject to the general control of the State, provide for the distribution of the proportional share of public funds allocated to Jewish schools in accordance with Article 9, and for the organisation and management of these schools.

The provision of Article 9 concerning the use of languages in schools shall apply to these schools.

Precisely the same terms were used and the same conditions incorporated in the Treaties signed by Czecho-Slovakia, Yugo-Slavia and other countries. All these States incorporated the provisions relating to minorities in their constitutions. The following extracts from the constitutions of these countries are significant.

CZECHOSLOVAKIAN CONSTITUTION. SECTION 6, ARTICLE 130.

Article 130.

In so far as citizens of the Czechoslovak Republic are entitled by the common law to establish, manage, and administer, at their own cost, philanthropic, religious, or social institutions, they are all equal, no matter what be their nationality, language, religion, or race, and may, in such institutions, make use of their own language and worship, according to their own religious ceremonies.

Article 131.

In towns and districts in which there lives a considerable fraction of Czechoslovak citizens speaking a language other than Czechoslovak the children of such Czechoslovak citizens shall, in public instruction and within the bounds of the general regulations relating thereto, be guaranteed due opportunity to receive instruction in their own tongue. The Czechoslovak language may at the same time be prescribed as a compulsory subject of instruction.

Article 132.

In towns and districts where there is living a considerable fraction of Czechoslovak citizens belonging to some minority, whether in respect of religion or nationality or language, and where specific sums of money from public funds as set out in the State budget or in the budget of local or other public authorities, are to be devoted to education, religion or philanthropy, a due share in the use and enjoyment of such sums shall be secured to such minorities, within the limits of the general regulations for public administration.

Article 133.

The method of carrying out the principles embodied in Articles 131 and 132, and especially the interpretation to be assigned to the expression "considerable fraction," shall be determined by a special enactment.

Article 134.

Every manner whatsoever of forcible denationalisation is prohibited. Non-observance of this principle may be proclaimed by law to be a punishable act.

CONSTITUTION OF THE ESTHONIAN REPUBLIC.

ARTICLES 20-23.

Article 20.

Every Esthonian citizen is free to declare to what nationality he belongs. In cases where personal determination of nationality is impossible, the decision shall be taken in the manner prescribed by law.

Article 21.

Racial minorities in the country have the right to establish autonomous institutions for the preservation and development of their national culture, and to maintain special organisations for their welfare, so far as it is not incompatible with the interests of the State.

Article 22.

In districts where the majority of the population is not Esthonian, but belongs to a racial minority, the language used in the administration of local self-governing authorities may be the language of that racial minority, but every citizen has the right to use the language of the State in dealings with such authorities. Local self-governing bodies which use the language of a racial minority must use the national language in their communications with governmental institutions, and with other local self-governing bodies which do not make use of the language of the same racial minority.

Article 23.

Citizens of German, Russian, or Swedish nationality have the right to address the central administration of the State in their own language. The use of these languages in the courts and in dealings with the local administrations of the State, or of self-governing bodies, shall be the subject of detailed regulations by special laws.

CONSTITUTION OF JUGOSLAVIA.

Article 16.

" Religious training is given according to the wishes of the parent or elders, based on their creeds, and in accordance with their religious beliefs. Technical schools will be established according to the needs of vocations. Education is given by the Government without entrance fees, tuition, or other taxes. The manner in which private schools, their like, and under what conditions they shall be permitted, will be provided by law. All institutions for education are under Government control. The Government will aid the work of national education. *Minorities of race, and language are given elementary education in their mother-tongue, under provisions which will be prescribed by law.*"

POLISH CONSTITUTION. ARTICLE 109 AND ARTICLE 120.

Article 109.

Every citizen possesses the right of safeguarding his nationality and of cultivating his national language and customs.

Special laws of the State guarantee the full and free development of their national customs to minorities in the Polish State, aided by autonomous federations of minorities, to which statutory recognition may be given within the limits governing general autonomous federations,

Article 120.

"*In all educational establishments for the instruction of young people who have not reached the age of eighteen years, controlled in whole or part by the State, or by local autonomous bodies, the teaching of religion is compulsory for all pupils. The direction and control of this teaching is the province of the particular religious body, without prejudice to the supreme right of control reserved to the State educational authorities.*"

GERMAN CONSTITUTION. ARTICLES 113, 146 AND 149.

Article 113.

The foreign language parts of the population of the Reich may not be interfered with by legislative or administrative action in their free racial development, especially in the use of their mother tongue in education, as well as in the local administration and the administration of justice.

Article 146.

Within the municipalities, upon the request of those persons having the right to education, elementary schools of their own religious belief or of their "*Weltanschauung*" shall be established, provided that an organised school system in the sense of paragraph 1 is not thereby interfered with. The wishes of those persons having the right to education shall be considered so far as possible. Detailed regulations shall be prescribed by State legislation on the basis of a national law.

Article 149.

Religious instruction shall be a part of the regular school curriculum with the exception of secular schools. Such instruction shall be regulated by the school laws. Religious instruction shall be given in harmony with the fundamental principles of the religious association concerned, without prejudice to the right of supervision by the State.

Teachers shall give religious instruction and conduct church ceremonies only upon a declaration of their willingness to do so; participation in religious instruction and in church celebrations and acts shall depend upon a declaration of willingness by those who control the religious education of the child.

Theological faculties in institutions of higher learning shall be maintained.

(3) PRINCIPLES OF SAFEGUARDS.

I should like to emphasise a few points here:—

(1) In the first place, the clauses relating to minorities are a *fundamental* part of the constitution.

(2) In the next place, the Great Powers, through the League of Nations, have made themselves responsible for their execution. The following example from Article 69 of the Treaty with Austria will suffice:—

> "Austria agrees that the stipulation in the foregoing Articles of this section, so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern, and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of the majority of the Council of the League of Nations."

From this it is perfectly clear that *even the sovereign European States* cannot modify the provisions relating to racial, religious and linguistic minorities *without the consent of the League of Nations*. Precisely the same conditions are embodied in every treaty with other Powers.

(4) SAFEGUARDS IN BRITISH DOMINIONS.

The English colonies themselves have been greatly troubled by the problem of minorities. The history of Canada from 1760 to the present

day contains numerous incidents throwing a vivid light on the relations between the English and the French in Canada. Every student of Lord Durham's classical report on Canada knows the difficulties experienced by British administrators in effecting reconciliation between the two races. Let me quote the following from Durham's letter, dated August 9, 1838:—

"If the difference between the two races were one of party or principles only, we should find on each side a mixture of persons of both races, whereas the truth is that, with exceptions which tend to prove the rule, all the British are on one side, and all the Canadians (French) are on the other. The mutual dislike of the two classes extends beyond politics into social life, where, with some trifling exception, all intercourse is confined to persons of the same origin. Grown-up persons of a different origin seldom or never meet in private society; and even the children, when they quarrel, divide themselves into French and English, like their parents." (*Documents of the Canadian Constitution, 1759-1915, by W. P. M. Kennedy.*)

This is borne out by the highest authority on Canadian history. Professor G. M. Wrong says in his work on the *Federation of Canada*, that "our language, our institutions, and our laws was the cry then of the French in Canada, and it has continued ever since." The English Government succeeded in reconciling these differences, and establishing peace in Canada. How was the problem solved? Let me quote a passage from the speech of Lord Carnarvon, who stated in a speech in the House of Lords in introducing the *British North America Bill*, on February 19, 1867:—

"Lastly, in the 93rd clause, which contains the exceptional provisions to which I referred, your Lordships will observe some rather complicated arrangements in reference to education. I need hardly say that that great question gives rise to nearly as much earnestness and division of opinion on that as on this side of the Atlantic. This clause has been framed after long and anxious controversy, in which all parties have been represented, and on conditions to which all have given their consent. It is an understanding which, as it only concerns the local interests affected, is not one that Parliament would be willing to disturb, even if in the opinion of Parliament it were susceptible of amendment; but I am bound to add, as the expression of my own opinion, that the terms of the agreement appear to me to be equitable and judicious. For the object of the clause is to secure to the religious minority of one Province the same rights, privileges, and protection which the religious minority of another Province may enjoy. The Roman Catholic minority of Upper Canada, the Protestant minority of Lower Canada, and the Roman Catholic minority of the Maritime Provinces will thus stand on a footing of entire equality. But in the event of any wrong at the hand of the local majority, the minority have a right to appeal to the Governor-General in Council, and may claim the application of any remedial laws that may be necessary from the Central Parliament of the Confederation."

Article 93 of the British North America Act of 1867, referred to above, may be quoted here:—

> "In and for each Province the Legislature may exclusively make laws in relation to Education, subject and according to the following Provisions:—
>
> (1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any class of Persons have by Law in the Province at the Union.
>
> (2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and Schools Trustees of the Queen's Roman Catholic

Subjects, shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec.

(3) Where in any Province a system of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor-General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's subjects in relation to Education.

(4) In case any such Provincial law as from time to time seems to the Governor-General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor-General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that behalf, then and in every such case and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due Execution of the Provisions of this Section, and of any Decision of the Governor-General in Council under this Section."

This section has been amplified, and the Governor-General in Council can refer the matter to the Supreme Court. The amendment is as follows:—

[Section 4. Repealing Section 37, Cap. 135, Revised Statutes, 1886.]

"(1) Important questions of law or fact touching provincial legislation, or the appellate jurisdiction as to educational matters vested in the Governor in Council by *The British North America Act*, 1867, or by any other Act or law, or touching any other matter with reference to which he sees fit to exercise this power, may be referred by the Governor in Council to the Supreme Court for hearing or consideration; and the Court shall thereupon hear and consider the same.

(2) The Court shall certify to the Governor-General in Council for his information, its opinion on questions so referred with the reasons therefor, which shall be given in like manner as in the case of a judgment upon an appeal to the said Court, and any Judge who differs from the opinion of the majority shall, in like manner, certify his opinion and his reasons."

The results of this settlement are thus summed up by Professor G. M. Wrong, in his book, "*The Federation of Canada*" (1867-1917).

"The true, and, I may hope, the final solution was to be found neither in isolation nor in complete union, but rather in both union and separation; union in the great affairs which touch trade, tariffs, public services, like the post office and the administration of justice; separation in respect to those things in which the two races had differing ideals, such as religion and education."

The Bilingual School Question has aroused intense excitement in Canada for more than half a century.

(5) Racial Conflicts in the Union of South Africa.

The problem of the rights of the two white races in South Africa bristled with difficulties. Let me quote Honourable Mr. R. H. Brand, who in his book entitled the "*Union of South Africa*" deals with this question:—

"The new spirit animating the leaders of both sides has been generously welcomed by both the British and Dutch communities. But in the working out of the constitution the differing ideals of the two races cannot fail to clash. Bilingualism, whether in education or in the public service, will cause trouble for many years.

Recent events are a sufficient proof. The education law of the Orange River Colony, whatever its merits or demerits, has certainly been read by the British population as an attempt to deprive their children of any proper instruction in the English tongue. Efforts have been made to found private schools where English can be properly taught. The Government has dismissed English and Scotch inspectors for their alleged unsympathetic administration of the law. A deputation has been sent to England to represent the grievances of the British people. There is every sign of strong feeling. Less is heard of the difficulties in the Transvaal, where the law is less rigid. But anyone who has any knowledge of the subject is aware that there, too, administration is hampered by constant friction, arising from local quarrels and jealousies over language. Nevertheless one cannot doubt that these difficulties will in time disappear. There are influences at work too strong to be controlled by legislation. As a general rule English parents are prepared that their children shall learn Dutch; while Dutch parents see how essential is a knowledge of English. A story which well illustrates this tendency is told by a small dorp in the Orange River Colony. A Scotch parent complained to the Education Department that his small daughter had been submitted in the playground of the school to the indignity of having a wooden collar placed round her neck. On inquiry it was found that the parents, most of whom were Dutch, thinking that too little English was taught in school hours, had asked that that language might be used during the play hours. There had been invented, in consequence, a mode of punishment which consisted in fastening a wooden collar round the neck of any child who used a Dutch word in the playground."

(6) The Hungarian Law for the Protection of Minorities.

The new kingdom of Hungary issued a decree on August 21, 1919, for the effectual protection of its linguistic, racial and religious minorities. It provides comprehensive safeguards for the protection of people who belong to non-Hungarian races, and is of special interest to minorities in India.

1. "All Hungarian citizens have completely equal rights.

2. "Subjects of the State belonging to racial minorities can freely make use of their native language in the Hungarian Parliament, in district and communal assemblies, as well as in their committees, wherever they have the right to make speeches.

3. "The laws and decrees of the Government are to be published in the languages of all the racial minorities; the Magyar text is authoritative. District and communal regulations will be published in the administrative language of the communal area, and also in the language used there at the meetings of the administrative bodies.

4. "The administrative language of a district assembly is fixed by the district at a general meeting. Proceedings are to be reported in that language and also in those languages which at least one-fifth of the members of the departmental representative body desire to use. The administrative language is the authoritative one.

5. "The district assemblies can make use of their administrative language in all their requests and decisions, but if this language is not Magyar they are bound to subjoin a Magyar text.

6. "The administrative language of communal bodies is determined by their assembly. As regards the reports of their proceedings, see paragraph 4.

7. "The communal bodies can use their administrative language on their requests and decisions.

8. " Subjects of the State belonging to racial minorities can use their native language in communicating with legislative bodies, the Government, the Ministries, district and communal administrative authorities as well as with the public services.

9. " The administrative bodies will issue their decision and replies in the same language as the applications, complaints and requests submitted to them, and in communicating with the communal bodies, societies, institutions, and private persons they will use the same language as the latter, provided it is the administrative language of the area.

10. " Whosoever requires the protection of the law and the assistance of the law courts, either as plaintiff, defendant or appellant, can use his native language, provided that it is the administrative language for the area within the jurisdiction of the court concerned.

11. " The law courts will issue their decisions in the same language as the application, etc. The evidence of witnesses and other judicial procedure will be taken in the language of the witness or the parties interested with the same proviso as in paragraph 10. Under the same conditions, appeals will be made in the language of the appellant provided that the court is aware which language this is. All other judicial decisions, including the verdict of the highest appeal court, will be given in the language of the interested parties at their request.

12. " Ecclesiastical administrative authorities, religious communities and parishes, can decide freely what is to be the official language of their church or the language of instruction in their schools and they can make use of it in their dealings with State and autonomous administrative bodies.

13. " Care must be taken that citizens of the State belonging to racial minorities and living in sufficiently considerable compact masses in the territory of the State may have facilities in the State educational establishments of the area where they reside for their children to be educated in their native language as far as the initial stages of higher education. In the universities special chairs will be established for the study of the languages and literatures of each racial minority.

14. " Municipalities, communal areas, churches, parishes or private persons belonging to any minority may found elementary, secondary or higher schools from their own resources or jointly. For this purpose, and in the interests of developing the national and economic resources, citizens of the State belonging to racial minorities can form societies and make collections under the legal control of the State. Educational and other establishments founded in this manner will enjoy the same rights as other schools and establishments. The founders will decide what language is to be used in them.

15. " The fact of belonging to any racial minority will not be an obstacle in the way of attaining rank or employment, whatever they may be. *The Government binds itself to see that judicial and administrative posts especially those of sub-prefects are filled, wherever possible, by persons belonging to racial minorities and knowing their languages.* Officials now in office are obliged to take the necessary steps so as to be able within a period of two years to satisfy the linguistic requirements of racial minorities inhabiting the area in which they are carrying out their duties.

16. " The competent Ministerial authorities are entrusted with carrying out the present decree in co-operation with the Minister of racial minorities, who will keep a continual check on the manner in which this is done, and who will organise for this purpose a special section for each of the racial minorities.

" The present decree will come into force on the day of its publication."

(7) THE CZECHOSLOVAKIAN LAW FOR THE PROTECTION OF THE LANGUAGES OF MINORITIES IN CZECHOSLOVAKIA.

The Constitution of Czechoslovakia provided for the passing of a language law for the protection of minorities. This promise was fulfilled in a law passed on February 29, 1920, by the Czechoslovakian Government. It is a document of far-reaching importance, and lays down detailed and minute provisions for the protection of the languages of minorities. The Republic, it will be noticed, contains three million Germans besides other races who speak different languages, belong to different races and profess different religions. The law is as follows:—

Article 1.

"The Czechoslovak language shall be the State official language of the Republic (Article 7 of the Treaty made between the leading Allied and Associated Powers and the Czechoslovak Republic and signed at St. Germain-en-Laye on September 10, 1919).

It is, thus, in particular the language:—

(1) In which the work of all the courts, offices, institutions, undertakings, and organs of the Republic shall be conducted, in which they shall issue their proclamations and notices as well as their inscriptions and designations. Exceptions to this section are laid down in Article 2 and Article 5 as well as in Article 6 relating to Russinia.

(2) In which the principal text on State and other bank notes shall be printed.

(3) Which the armed forces of the country shall use for the purpose of command and as the language of the service; in dealings with men and companies not knowing this language their mother tongue may also be used.

Detailed regulations will be issued as to the duty of State officials and employees, as well as officials and employees of State institutions and undertakings to know the Czechoslovak language.

Article 2.

In respect of national and language minorities (Chap. I, Treaty of St. Germain) the following rules shall apply:—

"It shall be the duty of courts, offices and organs of the Republic whose competence relates to a jurisdictional district in which, according to the latest census, at least 20 *per cent.* of the citizens speak the same language—and that, a language other than Czechoslovak—to accept (in all matters which they have to settle on the ground of their competence applying to such a district) from any member of this minority any complaints in this language, and to deal with the complaints not only in the Czechoslovak language, but also in that in which the complaint itself is presented. Where there are several district courts in one community, that whole community shall be deemed to be a single jurisdictional district.

"It shall be laid down by regulations to what extent and for what courts and offices it will be possible to restrict the settlement of cases to the language of the parties themselves. These courts and offices are those whose competence is limited to one district, namely, a district with such a national minority, as well as courts and offices immediately subordinate to them.

"Under similar conditions, it is the duty of the public prosecutor to frame the charges against an accused speaking another tongue in this language, too, or even in this language alone. The executive authority shall determine in such cases what language shall be used.

"If the party to any matter is not the initiator of the proceedings, he shall (if the other conditions of Article 2 are fulfilled) be entitled

on the same principles to have his case dealt with also in his own language, or even in it alone so far as it is known or otherwise at his request.

"In districts where there lives a national minority in the terms of Article 2, the language of the national minority shall be used concurrently with the Czechoslovak language in proclamations and notices issued by the State courts, offices and organs and for their inscriptions and designations."

Article 3.

It is the duty of autonomous offices, representative councils and all public corporations in the State whatsoever to accept and to deal with oral or written matter in the Czechoslovak language.

It shall always be possible to make use of this language in meetings and conferences: proposals and suggestions put forward in this language must be dealt with.

The State executive authority shall determine upon the language to be used for public proclamations and notices and for the inscriptions and designations for which the autonomous offices are responsible.

It is the duty of the autonomous offices, representative councils and public corporations to accept—under the conditions of Article 2—all matters presented to them in a language other than Czechoslovak and to deal with the same and also to permit the use of another language in meetings and conferences.

Article 4.

The State offices, using the State official language, shall, in their official proceedings in those parts of the Republic which before October 28, 1918, pertained to Kingdoms and Lands represented in the Imperial (Austro-Hungarian) Council or to the Kingdom of Prussia, use regularly the Czech language in Slovakia.

Matters presented in the Czech language are officially dealt with in the language in which they were presented.

Article 5.

The instruction in all schools established for members of a national minority shall be given in their language. Likewise educational and cultural institutions set up for them shall be administered in their language (Article 9, Treaty of St. Germain).

Article 6.

The Diet which shall be set up for Russinia shall have the right reserved to it for settling the language question for this territory in a manner consonant with the unity of the Czechoslovak State (Article 10, Treaty of St. Germain).

Until this settlement has been made this law shall apply, due regard, however, being paid to the special circumstances of that territory in respect of language.

Article 7.

Disputes regarding the use of a language in courts, offices, institutions, undertakings and organs of the State as well as in the autonomous offices and public corporations shall be settled by the competent organs of State control as matters of State administration detached from the causes of which they arose.

Article 8.

Details as to the carrying out of this law shall be fixed by the State executive authority which will, in the spirit of this law, lay down rules regulating the use of languages for autonomous offices, representative bodies and public corporations, as well as for those offices and public

organs whose competence extends to districts which are less than jurisdictional districts, or for organs which have no district of their own.

The rules shall also prescribe what measures shall be taken towards facilitating the dealings of officials with persons who do not speak the language in which the court, office, or organ conducts its business in the sense of this law. They shall also prescribe measures to be taken to protect the different parties from legal damage which might accrue to them from ignorance of the language in question.

Exceptions to the terms of this Act necessary for securing undisturbed administration may also be made by regulation for the period of five years, commencing from the day on which this law comes into force.

Finally, rules shall be laid down which are essential for securing the successful carrying out of this law.

Article 9.

" This law shall come into force on the day on which it is promulgated. It abrogates all rules relating to language which were in force previous to October 28, 1918. All Ministers are entrusted with the execution of this law."

(8) THE SIGNIFICANCE OF THESE MINORITY CLAUSES TO MINORITIES IN INDIA.

The minority clauses are of profound importance to the minority communities. It is futile to apply the conception of nationality prevalent in England or France to Indian conditions. People who are fond of using the word " nation " glibly, are either ignorant of the factors that have brought about the " unitary and organic States " in Western Europe, or deliberately shut their eyes to inconvenient facts, and act and talk on the assumption that no differences exist. It is the aim of every Indian to remove them, it is the desire of every patriot to bridge the gulf. But this is not achieved by merely asserting that no differences exist. A better method would be to analyse them, to investigate them calmly, and to find remedies for them. As Dr. Harold Temperlly says in his classical work entitled the *History of the Peace Conference of Paris of* 1919 (Vol. V, page 138): " If this system has succeeded in this country (England) it is owing to two reasons: (1) the presence of a very strong Government with traditions of over 1,000 years, and the inherited political experience of a nation long accustomed to self-administration; (2) natural frontiers which are unalterable, so that the very possibility of the secession of any part of the United Kingdom is excluded."

In Hungary, the Slovaks were subjected to humiliating treatment. Their children were forced to learn the Magyar language; the bulk of the elementary, secondary and University teachers were Magyars; and very few Slovaks were able to enter the Hungarian Parliament. Their nomination papers were, in most cases, rejected, while troops were quartered in the polling booths; elections were skilfully manipulated, and a systematic attempt was made to denationalise them. This reign of terror lasted nearly 60 years, and at last the Slovaks got their chance, and united themselves with the Czechs to found the kingdom of Czechoslovakia. Take the case of Roumania. That country acquired the whole of Transylvania, which contains an overwhelming number of Hungarians. In an exhaustive work on the *Minorities in Roumanian Transylvania,* by Dr. Szasz, the author shows the methods employed by the Roumanian Government to coerce and terrorise the racial minorities in Transylvania. Most of the old officials have been dismissed; the old University has been Roumanised; Hungarian language is systematically discouraged; their schools have been closed; their religion condemned; soldiers have been, and are quartered at the time of election to terrorise the Transylvanians; ballot boxes are stuffed, and the property of the minorities has been confiscated on the pretext of an agrarian law. Mr. Szasz thus concludes his book on the Transylvanian minorities in Roumania: " It is only when

the rights of minorities will be recognised in Roumania, based on international treaties, and not dependent upon party politics; only when their problem will become, not a phrase, but a reality, that they will be able to follow a policy which will serve both their own interests and those of Roumania."

(9) Representation of Minorities in the Public Services.

The Magyar population in Slovakia does not exceed 20 per cent. yet, as shown by Mr. Street, in *Democracy in Hungary*, the Magyar minority in Czechoslovakia obtained better terms as regards education than were promised them in the Treaty. The latter only provides for facilities for elementary education for the racial minorities, whereas the Magyar minority not only gets this in greater proportion than its strength warrants, but also gets the advantages of higher elementary and secondary education in its own language. As for the Slovak majority, their lot is so different now that Slovakia is released from the Magyar yoke, that it is almost unrecognisable. The population has now complete freedom in educational matters, and enjoys many facilities. Instead of being compelled to imbibe what knowledge it could in a foreign language, it has at its hand a modern and extensive system of schools of all grades. The outlay on education in Slovakia for the year 1921-22 was:—

	Crowns.
For State elementary schools	41,661,957
For Private elementary schools...	90,808,142
Total	132,470,099

Out of this total expenditure, the following grants were made for non-Slovak schools:—

	State schools.	*Private schools.*
Magyar	5,770,173	24,245,763
German	1,587,318	4,267,981
Roumanian	141,650	4,177,172
Total ...	7,499,141	32,690,916

This shows that the grants-in-aid are apportioned among the different races equitably. Mr. Street remarks, " The Magyar schools receive 22·5 per cent. of the whole sum spent on elementary education in Slovakia.

As regard the admission of Magyars to the public services, the Czechoslovak Government adopts an entirely unprejudiced attitude. The following figures show the distribution of nationalities in the various branches of the public services of Slovakia for the year 1921. It will be remembered that Magyars form only 20·6 per cent. of the population of Slovakia:—

	Czechoslovaks.	*Magyars.*
1. Political administration	1,763	397
2. Posts, Telegraphs and Telephones ...	4,676	1,685
3. Higher elementary school teachers ...	413	137
4. Secondary school teachers	431	138
5. Doctor and employees in State Hospital	248	88
6. Judges and Lawyers	198	160
7. Public Works	869	144
8. Agricultural service	993	576

From the above it will be seen that the proportion of Magyars in the public services of Czechoslovakia is far greater than the actual strength

of the Magyar minority would warrant. The figures before the War are illuminating. Here they are:—

	Magyars.	*Slovaks.*
Judges and official lawyers in Slovakia ...	461	0
In the whole of Hungary	4,756	1
Law courts and prison officials in Slovakia ...	805	10
Secondary school teachers in Slovakia ...	638	10
Medical officers in Slovakia	713	26
In the whole of Hungary	4,914	25

It is necessary to point out that 70 per cent. of the inhabitants of Slovakia were Slovaks, and only 25 per cent. understood Magyar.

(10) The Principles on which the Minorities Treaties are Based.

Principal Robertson has well said that in 1815 the remedy for twenty-five years of war and revolution was sought in a return to the past. "In 1919, the settlement capitalised the future; racial nationalism, expressed in the terms of States, big or little, was by its homœopathic power to expirate the evils of the body politic, and the nationalist State was to become the unit of a new system of international relations. The guarantees of the Rights of Minorities, the doctrine and machinery of mandates, and the Plebiscites are only logical deductions in a political form from this explicit adoption of racial nationalism alike as the criterion and the aim of political justice." The right of a racial group to achieve self-expression is not destroyed, because the group is neither sufficiently numerous nor sufficiently concentrated to justify its existence as a separate and sovereign political unit, with a definable geographical area for its independent existence; it may either be a scattered or relatively a weak element, reckoned in numbers, but in either case, if a definable character be accepted as the criterion, it is entitled to guarantees against denationalisation, which means the atrophy by enforced disuse of racial characteristics. "This denationalisation under the pressure of political, economic, or social institutions was the real grievance of many of the racial groups which made, for example, the Austro-Hungarian Empire. It could only be remedied either by cutting the group out of the Empire, and investing it with a separate existence, or by guaranteeing its 'rights' against the arbitrary power of a majority." Both these methods have been adopted. Some groups have been invested with separate political existence. Poland, Czechoslovakia are classical examples. Others have been guaranteed their rights by the Minorities Treaties discussed in this *Representation*.

(11) The Protection of Minorities in the German-Polish Convention Relating to Upper Silesia, Signed on May 15, 1922, at Geneva.

The Polish-German Convention contains most valuable information relating to the rights of minorities, and is of paramount importance to minorities in India. The portion dealing with education is most suggestive and helpful to Indian Muslims. Part III deals with the protection of minorities, and is divided into two divisions. Divisons II and III deal exhaustively with the religion, education, etc., of the minorities, and are as follows:—

GERMAN-POLISH CONVENTION SIGNED IN MAY, 1922.

Chapter I.—General Provisions.

Article 73.

1.—Poland and Germany undertake that the stipulations contained in Articles 66, 67 and 68 shall be recognised as fundamental laws, and that no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them.

2.—The tribunals and courts of justice, including the administrative, military, and extraordinary tribunals, shall be competent to examine whether the legislative or administrative provisions are not contrary to the stipulations of the present Pact.

Article 74.

The question whether a person does or does not belong to a racial, linguistic or religious minority, may not be verified or disputed by the authorities.

CHAPTER II.—CIVIL AND POLITICAL RIGHTS.

Article 75.

1.—All German nationals in the German portion of the plebiscite territory on the one hand, and all Polish nationals in the Polish portion on the other hand, shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

2.—Legislative and administrative provisions may not establish any differential treatment of nationals belonging to a minority. Similarly, they may not be interpreted or applied in a discriminatory manner to the detriment of such persons. The above principally concerns the supply of products subject to a centralised system of exploitation, such as articles of food, coal, fuel, paper used in the printing of newspapers, etc., the distribution of means of transport, the assignment of premises to persons, companies, or associations, the granting of official authorisations relating to transfers of real property and ownership, measures relating to the distribution of land, etc.

3. Nationals belonging to minorities shall, in actual practice, receive from the authorities and officials the same treatment and the same guarantees as other nationals; in particular the authorities and officials may not treat nationals belonging to minorities with contempt nor omit to protect them against punishable acts.

Article 76.

Nationals belonging to minorities may not be placed at a disadvantage in the exercise of their right of voting, notably in the case of a referendum, and of their rights of suffrage and eligibility as regards all elections to representative assemblies of the State and other public bodies, as well as for elections to representative bodies dealing with social matters. In particular, a knowledge of or familiarity with the official language may not be required of the said nationals for these purposes, without prejudice, however, to the provisions concerning the official language and the language in which the meetings may be conducted.

Article 77.

All nationals shall be treated on a footing of equality as regards admission to public employments, functions and honours, including military ranks, and to public establishments, and as regards the granting of degrees, distinctions, etc.

Article 78.

1. Nationals belonging to minorities shall enjoy the same rights as other nationals as regards the right of association of meeting and the creation of foundations.

2. The fact that associations devote themselves to the interests of minorities as regards their language, culture, religion, ethnical character or social relations, cannot constitute a reason for prohibiting these associations, hindering their activities or preventing them from acquiring legal status.

Article 79.

1. Subject to the general laws in force, nationals belonging to a minority shall be entitled to issue publications and printed matter of all kinds in their own language, as well as to import them from abroad and distribute them.

2. In so far as newspapers or periodicals are under an obligation to insert official communications, they shall be entitled to require that a translation in the language of the newspaper or periodical be supplied them with a view to insertion and that the current price for insertion be paid them. In the case of an insertion in two languages, payment may only be demanded for insertion in the official language. The publication of judgments and corrections required in virtue of a judicial decision shall not be considered as official communications.

Article 80.

Nationals belonging to minorities shall be treated on the same footing as other nationals as regards the exercise of agricultural, commercial or industrial callings, or of any other calling. They shall only be subject to the provisions in force applied to other nationals.

Article 81.

1. Nationals belonging to minorities shall have the right to establish, manage and control at their own expense charitable, religious, cultural or social institutions. Subject to State supervision, the existing institutions may continue to carry on their activities without hindrance. They shall retain their property and all their acquired rights in conformity with the stipulations of Article 4.

2. Institutions may bring from the territory of the other Contracting Party the ecclesiastics, teachers, doctors, sisters of charity, deaconesses, nurses and other similar personnel necessary for their activities, whatever may be the nationality of such persons. This stipulation does not, however, affect the provisions relating to the entry, residence and departure of aliens. The diplomas and professional degrees of the persons in question, which are valid in the territory of the other Contracting Party, shall also be recognised as valid for the exercise of their profession within the sphere of activitiy of the institutions which have introduced them.

3. The importation of the necessary books, works of edification, medical and surgical instruments, drugs, etc., is authorised, provided that the general prohibitions applicable to all nationals of the State do not oppose it. This stipulation shall in no way invalidate the customs regulations.

Article 82.

The following articles apply to persons who are entitled to retain their domicile in one of the two parts of the plebiscite territory:—

Article 76, as regards representative church assemblies or representative social bodies.

Article 77, except as regards admission to public functions and employment, including honorary functions and military ranks.

Article 78 (1), except as regards political associations.

Article 78, paragraph 2; Article 79; Article 81.

Article 83.

The Contracting Parties undertake to assure full and complete protection of life and liberty to all the inhabitants of the plebiscite territory, without distinction of party, nationality, language, race or religion.

Chapter III.—Religion.

Article 84.

§ 1.

The relations of the State with the religious confessions shall be governed by the law after hearing the competent representatives of these confessions in conformity with the principles laid down in the present chapter.

§ 2.

By the term " religious confessions " in the present chapter is meant all organised religions.

Article 85.

All the inhabitants of the plebiscite territory shall be entitled to the free exercise, whether public or private, of any creed, religion or belief whose practices are not inconsistent with public order or public morals.

Article 86.

1. Religious confessions, parishes and Jewish communities, as well as orders and congregations, shall be entitled to administer their affairs and to direct and supervise their institutions in full liberty, subject to the laws promulgated to maintain public order and public morals.

2. They shall be free to employ the language of their choice in all affairs of internal administration. Religious confraternities and societies may do the same.

Article 87.

§ 1.

Within the scope of the general laws and without prejudice to the rights of third parties or rights resulting from agreements between the State and the Holy See, religious confessions, parishes and Jewish communities, as well as orders and congregations, shall be entirely free to appoint ecclesiastics, functionaries, assistants, sisters of charity, deaconesses and other auxiliary personnel.

§ 2.

They may, in so far as they belong to a religious minority, for this purpose introduce from abroad persons such as those mentioned in § 1 who need not change their nationality and whose diplomas and professional degrees shall be recognised.

§ 3.

1. Religious confessions, parishes and Jewish communities, as well as orders and congregations, which include members of a racial or linguistic minority, shall be free to provide for such members divine service, the cure of souls and religious instruction in their own language.

2. In the event of persons belonging to a racial or linguistic minority forming the majority in a parish or Jewish community the provisions of § 2 shall be applicable.

Article 88.

Religious confessions, parishes and Jewish communities, as well as orders and congregations, may maintain, even outside the territory of the State, relations of a purely ecclesiastical character with a view to co-operation in regard to creed, doctrine, worship and charity, and they may receive gifts for this purpose from their co-religionists abroad.

Article 89.

1. Persons belonging to all confessions shall enjoy the legal holidays which were allowed them before the transfer of sovereignty. These

holidays may not be abolished or changed without the consent of the competent representatives of the religious bodies in question.

2. The question of the Sabbath is settled by Article 71.

Article 90.

The ecclesiastics and staff of religious confessions, parishes and Jewish communities, as well as of orders and congregations, may freely perform their duties whatever their origin or language.

Article 91.

Religious confessions, parishes and Jewish communities belonging to a religious minority shall be entitled to an equitable share of the sums provided for religious or spiritual purposes in the State, municipal or other budgets, taking into account the requirements of the nationals belonging to the religious minorities.

Article 92.

The Contracting Parties undertake to permit parishes and Jewish communities to take copies of the State tax returns to serve as a basis for the allocation of church taxes in the said parishes or communities.

Article 93.

1. All religious confessions, parishes and Jewish communities and all orders and congregations existing and recognised in the plebiscite territory shall continue to be recognised therein.

2. Taking into account the change of sovereignty, they shall be obliged to bring their organisation into line with the laws promulgated to maintain public order and public morals and with the provisions of the present chapter.

3. For the purposes of this adjustment they shall be allowed a transitional period lasting until July 1, 1923. This stipulation does not apply to the agreement which has been or may hereafter be concluded between the Polish State and the Holy See. It shall also not apply to the provision of Article 95.

Article 94.

1. Ecclesiastics, church functionaries, sisters of charity and deaconesses at present performing their duties may continue to do so without let or hindrance.

2. With the object of developing mutual good feeling, the Contracting Parties shall make representations to the ecclesiastical authorities with a view to an exchange of Catholic priests between the two parts of the plebiscite territory in conformity with the provisions of canon law.

Article 95.

Parishes and Jewish communities, as well as their ecclesiastics, functionaries and pensioners, may freely settle their economic relations with the ecclesiastical provident institutions (funds, etc.) to which they belong on the date of the transfer of sovereignty, and continue these relations as long as it remains impossible to substitute institutions able to replace them completely. The same shall apply to the survivors of the persons mentioned above.

Article 96.

§ 1.

Establishments, foundations and other institutions with religious or charitable aims whose activities extend to the two parts of the plebiscite territory may continue to exercise such activities until separate institutions have been organised for each part of the territory.

§ 2.

In the event of parishes or Jewish communities being divided by the frontier line between the two parts of the plebiscite territory, those concerned may take the necessary measures with a view to sharing in the upkeep of the movable and immovable property of the said parishes or communities.

Chapter IV.—Education.

First Section.—Private Education.

Article 97.

For the purposes of the present chapter, the term private education includes the teaching given by private schools and private educational establishments, whether they take the place of State schools or whether they do not, as in the case of the popular universities, academies of music, etc., as well as private teaching given out of school or at home.

Article 98.

1. Nationals who belong to minorities may establish, manage, supervise and maintain at their own expense private schools or private educational establishments and give private teaching, provided that the requisite conditions for the safety of the children are fulfilled and provided that the teachers or tutors possess the legally necessary qualifications, are domiciled in the territory of the State in which the teaching is given, and do not take advantage of their profession to engage in activities hostile to the State. In cases in which an authorisation is required, it shall be granted if the conditions specified above are fulfilled.

2. Private instruction out of school given by teachers, tutors of good moral character or by parents is authorised.

3. The questions whether the private instruction referred to in paragraphs 1 and 2 is necessary or not may not be taken into consideration.

Article 99.

1. The official language may not be imposed as the language of instruction in the private schools of linguistic minorities or in private teaching.

2. The official language may only be imposed as a part of the curriculum in private schools taking the place of State schools of the same category.

Article 100.

1. Any person who proves, by means of an official diploma, that he or she possess the status of public teacher in one of the two States shall be considered as duly qualified to give instruction in a private school. To give private teaching out of school or to teach subjects in schools, not forming part of the regular curriculum, it is sufficient to produce a certificate of capacity to give such teaching delivered by a competent authority of one of the two States.

2. The other provisions relating to the admission of aliens to act as teachers in private schools shall be so applied that the private schools of a minority can recruit some of the members of their teaching staff from abroad.

Article 101.

German nationals domiciled in Polish Upper Silesia may not be forbidden from attending private schools or private educational establishments in Polish Upper Silesia. Similarly, Polish nationals domiciled in the German part of the plebiscite territory may not be forbidden from attending private schools or private educational establishments in the German part of the plebiscite territory.

Article 102.

The right granted to a minority to supervise private schools in no way invalidates the right of supervision belonging to the State authorities.

Article 103.

1. Children belonging to a minority and receiving, at home or in a private school, a sufficient private education shall not be obliged to attend a State school.

2. The Government educational authorities shall decide whether the private teaching in question is or is not sufficient to take the place of public education.

Article 104.

The special provisions relating to private professional or supplementary instruction will be found in Article 115; and those relating to private secondary and higher teaching in Articles 128—130.

SECOND SECTION.—PUBLIC ELEMENTARY EDUCATION.

Article 105.

§ 1.

For the purposes of the present chapter elementary schools shall be taken to mean schools, other than extension schools, which children must attend if the prescribed teaching is not given to them in any other manner.

§ 2.

The needs of the minorities as regards public elementary education shall be supplied by means of the following educational institutions:—

(a) Elementary schools employing the minority language as the language of instruction—i.e., *minority schools;*

(b) Elementary classes employing the minority language as the language of instruction, established in the elementary schools employing the official language—i.e., *minority classes;*

(c) Minority courses, including:

(1) *Teaching of the minority language (minority language courses);*

(2) *Religious teaching in the minority language (minority religious courses).*

Article 106.

§ 1.

1. A minority school shall be established on the application of a national supported by the persons legally responsible for the education of at least 40 children of a linguistic minority, provided these children are nationals of the State and that they belong to the same school district (*Schulverband—zwiazek szkolny*), that they are of the age at which education is compulsory, and that their parents intend to send them to the said school.

2. If at least 40 of these children belong to the same denomination or religion, a minority school of the denominational or religious character desired shall be established on application.

3. Should the establishment of a minority school be inexpedient for special reasons, minority classes shall be formed.

§ 2.

The applications mentioned in paragraphs 1 and 2 of § 1 shall be complied with as expeditiously as possible, and not later than beginning of the school-year following the application, provided the latter has been submitted at least nine months before the beginning of the school-year.

Article 107.

1. *On the application of a national supported by the persons legally responsible for the education of at least eighteen pupils of an elementary school who are nationals of the State and belong to a linguistic minority, minority language classes shall be established as soon as possible for these pupils.*

2. *In the same circumstances, if at least 12 of these pupils belong to the same denomination or religion, minority religious courses for these pupils shall be established on application.*

Article 108.

§ 1.

1. Minority educational institutions may not be closed unless the number of their pupils for three consecutive school years is less than the number required for their establishment.

2. Nevertheless, the school may be closed at the end of one school-year if throughout that year the number of pupils has been lower than half the number required.

§ 2.

If a minority educational institution is closed, the minority may maintain the institution in question on a private footing. When circumstances permit, the premises and school material employed may be left at its disposal.

Article 109.

§ 1.

The maintenance of minority educational institutions shall be provided for according to the same principle as the maintenance of other State elementary schools. The competent State authority shall be responsible for seeing that their maintenance is provided for.

§ 2.

1. The communes (or *Gutsbezirke—obszary dworskie*, as the case may be), with State aid, shall be responsible for the maintenance of the State elementary schools. It is possible that several communes may be grouped in *Gesamtschulverbände—zbiorowe związki szkolne*, for the maintenance of schools. State aid will consist either in making grants or subsidies or in assuming direct responsibility for part of the maintenance of the schools.

2. The salaries of the teaching staff of minority educational institutions, together with replacement expenses, shall be paid by the same organisations as those of the staff of the other State elementary schools.

Article 110.

§ 1.

1. The minority schools shall receive a share, proportionate to the number of their pupils, of the funds allowed from the budgets of the school districts for the ordinary maintenance of elementary schools, apart from general administration expenses and grants-in-aid. As regards special expenses (transformations and extensions of the school organisation, important building operation, etc.), the competent State authority shall see that the minority schools are not placed at a disadvantage in the allocation of the credits provided for this purpose in the budgets of the school districts.

2. In case of dispute, the State educational authorities shall decide what expenses are to be considered as general administration expenses.

§ 2.

In the distribution of the funds assigned to public elementary education in general by the State or by public organisations other than school

districts, minority schools shall be treated on the same footing as the other elementary schools. As regards the sums derived from the funds whose employment is left to the discretion of the administration, minority schools shall in the same circumstances receive the same allocations as the other elementary schools.

Article 111.

1. A school committee shall be established for each minority school and for minority classes to share in their administration. More than half the members of this committee shall be elected by the persons legally responsible for the education of the pupils of the school or classes in question.

2. If there are several minority schools belonging to the same denomination or religion in a school district, a joint school committee may be established for all these schools.

3. If, in a school district, all the schools belong to the same minority, it shall not be necessary to establish a school committee. The delegation of the school district (*dozor szkolny, depulacja szkolna—Schulvorsland, Schuldeputation*) shall in this case be invested with the attributions of the school committee.

Article 112.

1. The school committees shall have an equitable share in both the internal and external administration of the minority schools. They shall, in particular, be responsible for supervising the condition of the premises and the school material.

2. The school committees may vote when decisions are taken relating to the use of the funds assigned to minority educational institutions.

3. Before the appointment of teachers in minority schools or classes, the school committee shall have an opportunity of making recommendations with regard to the choice of candidates, without prejudice to the prerogatives of the State educational authorities in the matter of appointments. The delegation of the school district shall have no voice in the discussions. If the educational authority does not act on the school committee's recommendations it shall, as a general rule, communicate the reasons for its attitude to the said committee if the latter so requests.

Article 113.

With a view to ensuring a sufficient supply of teachers for the educational institutions of linguistic minorities, the Contracting Parties agree to take the following measures:—

(1) *As a general rule, only teachers belonging to the minority and perfectly acquainted with its language shall be appointed to minority schools.*

Language courses shall be established for teachers appointed, or about to be appointed, to minority schools who are not sufficiently acquainted with the minority language.

(2) *A sufficient number of institutions shall be established, in conformity with the legislation of the State concerned, for the general training of future teachers in which the language of instruction shall be the minority language.*

(3) *The diplomas required of a teacher for appointment to a public elementary school of one of the Contracting States shall be sufficient to qualify him to act as teacher of the minority in the portion of the plebiscite territory belonging to the other State. Nevertheless, the acquisition of that State's nationality may be required.*

Article 114.

1. The German Government shall take the necessary steps to establish in the German portion of the plebiscite territory, during the school-year 1922-23, the minority educational institutions provided for in the present chapter.

2. The Polish Government shall see that, in Polish Upper Silesia, the teaching given in German to German pupils, in so far as minority educational institutions are provided for in the present chapter, is not interrupted, unless difficulties of educational administration render this impossible.

THIRD SECTION.—VOCATIONAL TRAINING AND EXTENSION CLASSES.

Article 115.

The Contracting Parties shall not be obliged to create vocational schools or extension classes for a minority. If, however, private classes exist, at which the members of a minority can receive adequate vocational and supplementary training, attendance at these classes shall free them of any obligation to attend the corresponding State schools.

FOURTH SECTION.—SECONDARY AND HIGHER EDUCATION.

Article 116.

1. Whereas the special position of the plebiscite territory demands that the needs of the minority as regards secondary and higher education should receive particular attention during the period of transition, the Governments of the two Contracting Parties undertake to use all the influence at their disposal with a view to the adoption of the principles of Articles 117 to 130 by the competent bodies.

2. Until such time as these bodies have settled the question, the two Governments undertake to apply the following provisions.

Article 117.

§ 1.

For the purposes of the present chapter, secondary and higher schools shall be taken to mean schools of all kinds of secondary and higher grades within the meaning of the regulations in force in the plebiscite territory on the date of the transfer of sovereignty. Schools of new types subsequently created, out of the same grade, shall also be considered as such.

§ 2.

The needs of the minorities in regard to secondary and higher public education shall be met by means of the following educational institutions:—

(*a*) Secondary and higher schools employing the minority language as the language of instruction—i.e., minority schools.

(*b*) Parallel classes employing the minority language as the language of instruction, established in the public schools employing the official language—i.e., minority classes.

(*c*) Minority courses, including:—

(1) Teaching of the minority language (minority language courses).

(2) Religious instruction in the minority language (minority religious courses).

Article 118.

§ 1.

1. In localities in the plebiscite territory in which there is a higher State school, a minority State school of the same grade shall be established if an application to that effect is made and is supported by the persons legally responsible for the education of at least 300 pupils.

2. Minority classes shall be established in the higher State schools if an application to that effect is supported by the persons legally responsible for the education of at least 30 pupils in each of the four lower classes and of at least 20 pupils in each of the higher classes.

3. Minority language courses shall be established if an application to that effect is supported by the persons legally responsible for the education of at least 25 pupils and minority religious courses if the application is supported by the persons legally responsible for the education of at least 13 pupils.

§ 2.

An application may be supported by the persons legally responsible for the education of pupils of a linguistic minority who are nationals of the country in which the educational institution is situated, who reside in the part of the plebiscite territory belonging to that country, and who are entered or apply to be entered in a higher school.

Article 119.

1. The minority school may be established in another locality if this is compatible with the needs of the pupils belonging to the minority.

2. If the minority school is installed in a separate building, it shall have its own headmaster belonging to the minority. If it is situated in the same building as a higher school in which the language of instruction is the official language, its external administration may be entrusted to the headmaster of that school; but as regards all matters of teaching administration, it shall have its own headmaster belonging to the minority.

Article 120.

Minority educational institutions under the State may be replaced by communal institutions of the same grade.

Article 121.

1. The competent authorities of the two Contracting Parties shall be bound to use all their influence and authority with the communes in which there are higher communal schools with a view to the establishment by the said communes of the minority educational institutions mentioned in Articles 118 and 119, if the conditions stipulated in these Articles are fulfilled.

2. The same applies to minority institutions for secondary education. Nevertheless, the application must be supported by the persons legally responsible for the education of at least 200 pupils as regards the establishment of a minority secondary school, and of at least 35 pupils in the case of the formation of a minority class.

Article 122.

1. Minority educational institution may be closed if for three consecutive school years the number of their pupils is lower by at least 20 per cent. than the number required for their establishment.

2. If during one year the number of pupils is less than half the number required for its establishment, the educational institution may be closed at the end of the school year.

Article 123.

In public minority schools and classes of the secondary and higher grades, instructions shall only be given as a rule by teachers belonging to the minority and thoroughly acquainted with the minority language.

Article 124.

With a view to the application of the principles of Article 123, each Contracting Party declares its willingness to engage teachers belonging to the teaching staff of the other Contracting Party on the following conditions:—

(*a*) The appointment shall be made for a period extending until the end of the school year 1936-37. Nevertheless, even before the end of this period, the State may terminate a contract as from the end

of each school year upon giving six months' notice, and the teacher may terminate the contract at any time upon giving three months' notice.

(*b*) The State must pay teachers a salary at least equal to that which they would receive in their own country.

(*c*) Teachers shall not be obliged to take the oath to the State required of public officials. They may, however, be required to make a written declaration giving the State a pledge that they will faithfully and conscientiously perform their professional duties.

(*d*) The State may transfer teachers from one minority school to another minority school of the same grade, or to minority classes of the same grade. Such transfers may only take place in the plebiscite territory.

(*e*) From the point of view of their authorities, teachers shall be regarded as on leave. They shall retain their rights to pensions and to relief for their surviving dependants. On relinquishing their employment in the foreign country, they shall be automatically reinstated in their posts in the teaching staff of their own country. Their period of service abroad shall be considered for the purposes of salary and promotion as service performed in their own country.

Article 125.

1. In places where there are minority schools or classes, the persons legally responsible for the education of the pupils who attend them shall be adequately represented in the school committees (*kuratorien deputationen—kuratorja deputacje*), if any.

2. The school committees of communal schools shall have an equitable share in both the internal and external administration of these schools; they shall, in particular, be responsible for supervising the conditions of the premises and school material. These school committees may vote when decisions are taken relating to the use of the funds assigned to minority educational institutions.

Article 126.

The school fees charged for attendance at State minority schools shall not be higher than those charged for attendance at corresponding schools using the official language. No additional fees shall be charged for attendance at minority classes or courses.

Article 127.

The official examinations in minority schools and classes shall be held in the minority language.

Article 128.

If the teaching given in private minority schools corresponds to that given in the State secondary or higher schools, these private minority schools shall be recognised as secondary or higher schools, and their certificates, particularly school-leaving certificates, shall have the same value as those granted by the public secondary or higher schools.

Article 129.

If a private minority school replaces a State secondary or higher school existing on the date of the transfer of sovereignty, it shall be entitled to a grant from public funds:

(*a*) Provided that the income of the school does not cover its necessary expenses. Income derived from school fees shall be estimated on the basis of at least the schools of the same kind.

(*b*) And provided that the number of pupils who are nationals of the State amounts to either a total of 150, or an average of 30 per class in the four lower classes or 20 in the other classes.

Article 130.

§ 1.

1. State grants shall be made on the same principles as the grants made by the State to communal or private schools of the same kind or grade.

2. In calculating the amount of these grants, account may be taken of the differences between the financial burdens on State and private schools.

§ 2.

1. Grants may only be made by communes or groups of communes (*kommunalverbande—swiazki komunalne*) if the commune or group of communes in whose area the private school is situated makes grants to State or private schools of the same grade, or if its expenditure on its schools of the same grade is not covered or is only partly covered by the income of these schools.

2. One of the bases for calculating these grants shall be the average amount of the grants or expenses disbursed per pupil. Only pupils of the private school who are nationals of the State and who reside in the commune or group of communes in question shall be counted.

§ 3.

If the State, commune or group of communes declares its willingness and is actually prepared to admit a certain number of the pupils of the private school to a State minority school or minority classes in the same locality, the amount of the grant to be made to the private school shall be reduced by a sum proportionate to this number of pupils.

FIFTH SECTION.—GENERAL PROVISIONS.

Article 131.

1. In order to determine the language of a pupil or child, account shall only be taken of the verbal or written statement of the person legally responsible for the education of the pupil or child. This statement may not be verified or disputed by the school authorities.

2. Similarly, the school authorities must abstain from exercising any pressure, however slight, with a view to obtaining the withdrawal of request for the establishment of minority schools.

Article 132.

§ 1.

By language of instruction or language considered as a subject of the curriculum is meant correct literary Polish or German as the case may be.

§ 2.

When a minority language is the language of instruction, it shall be used for the teaching of all subjects for the teaching of Polish in the Polish part of the plebiscite territory and for the teaching of German in the German part of that territory, when instruction in these languages forms part of the school curriculum.

§ 3.

Minority courses in the minority language shall be given in that language.

Article 133.

1. The Contracting Parties undertake not to authorise in any school in their respective parts of the plebiscite territory the use of books or pictorial teaching material liable to offend the national or religious sentiments of a minority.

2. Similarly, each of the Contracting Parties shall take the necessary measure to ensure that, in the lessons given at school, the national and intellectual qualities of the other Party are not improperly depreciated in the eyes of the pupils.

Chapter V.—Languages.

Article 134.

The Contracting Parties guarantee to the minorities the free use of their language both in their individual or economic relations and in their collective relations. No provision may limit the exercise of this freedom. The same shall apply as regards the free use of minority languages in the Press and in publications of all kinds, and at public or private meetings.

Article 135.

In verbal relations with the civil authorities of the plebiscite territory, all persons shall be entitled to use either the German or the Polish language.

Article 136.

Petitions addressed to the civil authorities of the plebiscite territory may be drawn up in German or in Polish. The reply may be made in either of the languages. If it is made in the official language a translation must be attached if the petition was not drawn up in that language and if the petitioner has so requested.

Article 137.

The official communications of the civil authorities in the plebiscite territory shall be made in the official language. A translation in the minority language shall be attached to these communications in all places in which this procedure was employed on January 1, 1922. The competent authorities shall nevertheless be free to settle this point in a different manner.

Article 138.

1. Subject to the regulations concerning the use of the official language and in particular the language in which minutes, motions, etc., must be drawn up, nationals belonging to the minorities may speak in their own language in the *Kreislag*, in the *sejmik powialowy*, and in the municipal and communal councils of the plebiscite territory.

2. The same shall apply to the *sejm* of the Voivodship of Silesia and to the *Provinziallandlag* of Upper Silesia for four years from the date of the transfer of sovereignty.

3. The provisions of paragraphs 1 and 2 shall be applicable to any representative assemblies which may hereafter replace the assemblies mentioned above.

Article 139.

1. The provisions of the present section shall not apply to the administrations of the railways and of the posts, telegraphs, etc.

2. In direct relations with the public, and particularly at railway ticket offices and post offices, the convenience of the population shall, as far as possible, be considered, so far as the minority language is understood by the employees.

Article 140.

1. In the ordinary courts of the plebiscite territory, any person shall be entitled to use verbally or in writing either the German language or the Polish language instead of the official language. The same shall apply to petitions addressed to the ordinary courts of the plebiscite territory which must be forwarded for decision to a higher court sitting outside this territory so far as the petition can be admitted by the court to which it is addressed. Without prejudice to the special measures contemplated by the Polish Government for the period of

transition following upon the entry into force of the treaty, this privilege shall not be enjoyed by advocates or persons who professionally represent third parties before the courts, except in cases when they are acting on their own behalf.

2. In case of need, that part of the proceedings which does not take place in the official language shall be translated by the President of the Court, by one of its members, or by an interpreter called by the court.

3. The court shall decide whether it is advisable to insert in the records or as an annex statements or evidence produced in a minority language, or to attach to the records a translation certified by the interpreter. A party may not, however, demand that an annexed record shall be drawn up in the language of a minority.

Article 141.

The Minister of Justice may decree that complaints, petitions or other declarations of a party, drawn up in the minority language and which must be officially notified *ex officio*, shall be accompanied by the number of copies necessary for such notification.

Article 142.

1. The official notification of complaints, or other documents relating to a case, drawn up in the minority language shall only be valid if it is made in the other State or in the plebiscite territory.

2. If the notification in the minority language is without effect, and if official notification must be made *ex officio*, a translation of the complaint or document in question must be arranged for by the court and forwarded for the purpose of notification; a copy of the original must be attached; the notification of the translation shall in this case have the same effect as a valid notification of the document translated.

Article 143.

Without prejudice to the provisions of Article 146, applications for entries in the land register or other registers kept by the courts, as well as declarations of consent relating thereto, must, if they are drawn up in the minority language, be accompanied by a translation by a sworn interpreter, whose text shall be taken as authentic in case of divergence.

Article 144.

In the ordinary courts of the plebiscite territory the Polish language may, if the court deem necessary, be employed in the debates in the German part, and the German language in the Polish part, provided that the parties, witnesses and other persons concerned understand it sufficiently. Even in such case, judgment shall be delivered in the official language, and the records shall be drawn up in that language. The provisions of paragraph 3 of Article 140 shall apply.

Article 145.

The above mentioned provisions shall also be applicable to commercial courts, trade councils, trade union, arbitration tribunals, social insurance administrative tribunals, conciliation and arbitration committees, conciliation offices for rent and lease cases and Versorgungsgerichle. These provisons are also applicable to relation between the public and bailiffs, arbitrators, persons qualified to draft wills in case of urgency, and village courts.

Article 146.

The above provisions in no way invalidate any regulations already issued, or which may hereafter be issued, authorising in a still larger measure the use of the Polish language in the German part, or the use of the German language in the Polish part. In particular, the option granted to notaries under paragraph 2245 of the German Civil Code shall be maintained.

RIGHT OF PETITION AND METHODS OF APPEAL.

Article 147.

The Council of the League of Nations is competent to pronounce on all individual or collective petitions relating to the provisions of the present Part and directly addressed to it by members of a minority. When the Council forwards these petitions to the Government of the State in whose territory the petitioners are domiciled, this Government shall return them, with or without observations, to the Council for examination.

Article 148.

In order to ensure that petitions emanating from members of a minority and relating to the interpretation or application of the provisions of the present Part should receive uniform and equitable treatment from the administrative authorities in each of the two Parts of the plebiscite territory, each of the two Governments shall establish a Minorities Office in its part of the plebiscite territory.

Article 149.

As regards the application and interpretation of the provisions of the present Part by the administrative authorities who receive orders from higher authorities, members of a minority may submit a petition to the Minorities Office of their State for examination, in conformity with the following provisions. In accordance with the special stipulations contained in the following articles the Minorities Office shall then forward these petitions to the President of the Mixed Commission for his opinion. If the petitioners are not satisfied with the action taken in the matter by the administrative authorities, they may appeal to the Council of the League of Nations.

Article 150.

1. All petitions must be forwarded to the Minorities Office in triplicate, under the following conditions:—

(*a*) After the complaint has been brought before the administrative authority which ranks as the highest competent instance in the plebiscite territory as regards the matter in question; or

(*b*) if the case is within the competence of the autonomous communal authorities (*kommunale Selbstverwaltungskorper—kommunale ciala sumorzadowe*), after the complaint has been laid before the State authority responsible for communal supervision which ranks as the highest competent instance in the plebiscite territory; or

(*c*) in the case of a dispute as to whether the requisite conditions for the establishment or maintenance of a minority school, class or course have not been fulfilled, after the matter has been laid before the State authority competent with regard to schools; or

(*d*) in a case in which the first complaint must be addressed to an administrative authority outside the plebiscite territory, or for which the competent authority of the first instance is outside the said territory, after the complaint has been laid before the proper higher authorities competent in the matter.

2. A petition addressed to the Minorities Office before the conditions prescribed in paragraph 1 have been fulfilled shall be rejected without examination.

Article 151.

If a member or a minority establishes a *prima facie* case that the matter which concerns him has not been settled within a reasonable time by the administrative authorities, or that the matter is one which requires urgent settlement, he may demand that his petition should be examined even before appealing to the administrative authorities mentioned in paragraph 1 of Article 150.

Article 152.

1. In all the cases provided for in Articles 150 and 151, if the Minorities Office does not succeed in giving satisfaction to the petitioners, it shall forward the petition with its observations to the President of the Mixed Commission for his opinion.

Each Minorities Office shall represent the authorities of its country in relations with the President of the Mixed Commission.

Article 153.

1. The President of the Mixed Commission shall be free to make all enquiries he may consider useful and appropriate. He shall give the petitioners and the Minorities Office an opportunity of submitting their observations verbally or in writing.

2. After examining the case and giving the members of the Mixed Commission an opportunity of expressing their views, the President shall communicate to the Minorities Office his own opinion on the matter in which the case may be settled in conformity with the provisions of the present part, the provisions of paragraph 1 of Article 158 being applicable *mutatis mutandis*.

3. The opinion may indicate a final, a provisional or a partial solution. The President may also declare that he will only state his opinion at the end of a certain period.

Article 154.

The Minorities Office shall forward the opinion of the President of the Mixed Commission to the competent administrative authorities, and shall, as soon as possible, inform the President of the Mixed Commission of the decision of the authorities, stating whether and in what manner they have taken his opinion into account.

Article 155.

The time limits for proceedings shall be fixed by the President of the Mixed Commission.

Article 156.

The proceedings shall not be public. The President of the Mixed Commission shall decide whether and when his opinion may be communicated to the petitioner by the Minorities Office. He shall also decide whether and when its publication shall be allowed.

Article 157.

The appeal to the Council of the League of Nations provided for in Article 149 shall be addressed to the Minorities Office. The latter shall arrange for its transmission to the Council by the Government.

Article 158.

1. If, in the cases referred to in Article 588, the judgment or decision depends on the interpretation of the provisions of the present part, the question of interpretation shall be submitted to the President of the Arbitral Tribunal alone in case of " evocation " (removal from the jurisdiction of the courts). " Evocation " may be applied for by the member of a minority concerned or by the opposing party.

2. The interpretation given by the President of the Arbitral Tribunal shall take into account, *inter alia*, such resolutions of the Council of the League of Nations as may refer to similar cases in Upper Silesia. The question whether any national laws are compatible with the provisions of the present part may not be examined.

(12) The Protection of Minorities in Turkey.

Even Turkey, which has figured prominently in the text-books of European history as the oppressor of Christian minorities, has embodied precisely the same provisions in the Lausanne Treaty. Indian Muslims

will be particularly interested in the example of toleration which Muslim Powers like Turkey and Albania have shown. The treaty with Albania is precisely the same. The following extract from the Treaty of Peace between the British Empire, France, Italy, Japan, Greece, Roumania, the Serbo-Croat-Slovene State and Turkey deals with the protection of minorities. It was signed at Lausanne on July 24, 1923, and was brought into force from August 6, 1924.

TREATY WITH TURKEY, SIGNED AT LAUSANNE ON JULY 24, 1923.

PART I.

Protection of Minorities.

Article 37.

Turkey undertakes that the stipulations contained in Articles 38 to 44 shall be recognised as fundamental laws, and that no law, no regulation, nor official action shall conflict or interfere with these stipulations, nor shall any law, regulation, nor official action prevail over them.

Article 38.

The Turkish Government undertakes to assure full and complete protection of life and liberty to all inhabitants of Turkey without distinction of birth, nationality, language, race or religion.

All inhabitants of Turkey shall be entitled to free exercise, whether in public or private, of any creed, religion or belief, the observance of which shall not be incompatible with public order and good morals.

Non-Moslem minorities will enjoy full freedom of movement and of emigration, subject to the measures applied, on the whole or on part of the territory, to all Turkish nationals, and which may be taken by the Turkish Government for national defence, or for the maintenance of public order.

Article 39.

Turkish nationals belonging to non-Moslem minorities will enjoy the same civil and political rights as Moslems.

All the inhabitants of Turkey, without distinction of religion, shall be equal before the law.

Differences of religion, creed or confession shall not prejudice any Turkish national in matters relating to the enjoyment of civil or political rights, as, for instance, admission to public employments, functions and honours, or the exercise of professions and industries.

No restrictions shall be imposed on the free use by any Turkish national of any language in private intercourse, in commerce, religion, in the press, or in publications of any kind or at public meetings.

Notwithstanding the existence of the official language, adequate facilities shall be given to Turkish nationals of non-Turkish speech for the oral use of their own language before the Courts.

Article 40.

Turkish nationals belonging to non-Moslem minorities shall enjoy the same treatment and security in law and in fact as other Turkish nationals. In particular, they shall have an equal right to establish, manage and control, at their own expense, any charitable, religious and social institutions, any schools and other establishments for instruction and education, with the right to use their own language and to exercise their own religion freely therein.

Article 41.

As regards public instruction, the Turkish Government will grant in those towns and districts, where a considerable proportion of non-Moslem nationals are resident, adequate facilities for ensuring that in the primary

schools the instruction shall be given to the children of such Turkish nationals through the medium of their own language. This provision will not prevent the Turkish Government from making the teaching of the Turkish language obligatory in the said schools.

In towns and districts where there is a considerable proportion of Turkish nationals belonging to non-Moslem minorities, these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budgets for educational, religious, or charitable purposes.

The sums in question shall be paid to the qualified representative of the establishments and institutions concerned.

Article 42.

The Turkish Government undertakes to take, as regards non-Moslem minorities, in so far as concerns their family law or personal status, measures permitting the settlement of these questions in accordance with the customs of those minorities.

These measures will be elaborated by a special Commission composed of representatives of the Turkish Government and of representatives of each of the minorities concerned in equal number. In case of divergence, the Turkish Government and the Council of the League of Nations will appoint in agreement an umpire chosen from amongst European lawyers

The Turkish Government undertakes to grant full protection to the churches, synagogues, cemeteries, and other religious establishments of the above-mentioned minorities. All facilities and authorisation will be granted to the pious foundations, and to the religious and charitable institutions of the said minorities at present existing in Turkey, and the Turkish Government will not refuse, for the formation of new religious and charitable institutions, any of the necessary facilities which are guaranteed to other private institutions of that nature.

Article 43.

Turkish nationals belonging to non-Moslem minorities shall not be compelled to perform any act which constitutes a violation of their faith or religious observances, and shall not be placed under any disability by reason of their refusal to attend Courts of Law or to perform any legal business on their weekly day of rest.

This provision, however, shall not exempt such Turkish nationals from such obligations as shall be imposed upon all other Turkish nationals for the preservation of public order.

Article 44.

Turkey agrees that, in so far as the preceding Articles of the Section affect non-Moslem nationals of Turkey, these provisions constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of the majority of the Council of the League of Nations. The British Empire, France, Italy and Japan hereby agree not to withhold their assent to any modification in these Articles which is in due form assented to by a majority of the Council of the League of Nations.

Turkey agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such directions as it may deem proper and effective in the circumstances.

Turkey further agrees that any difference of opinion as to questions of law or of fact arising out of these Articles between the Turkish Government and any one of other Signatory Powers or any other Power, a member of the Council of the League of Nations, shall be held to be a dispute of an international character under Article 14 *of the Covenant of the*

League of Nations. The Turkish Government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under Article 13 *of the Covenant.*

Article 45.

The rights conferred by the provisions of the present Section on the non-Moslem minorities of Turkey will be similarly conferred by Greece on the Moslem minorities in her territory.

(13) How have these Safeguards Worked?

I have dealt at some length with the main provisions of minorities treaties, as I am convinced that the methods adopted by the great European Powers towards those States which have agreed to these treaties are capable of application to this country. For I believe that what my community needs at the present time is not only separate electorates, but also safeguards in those matters—and they are neither small nor unimportant—which touch us vitally, and upon which depends our cultural, political, economic, and religious existence. A question may well be asked, how have these safeguards worked in Europe? Before I detail the measures adopted by the League of Nations for the execution of these clauses I would like to draw your attention to one feature in the Government of the British Empire, which differentiates the measures adopted by the League. The latter, as is well known, possesses only moral sanction. There is no force behind its decrees, and, consequently, potent and effective sanction is lacking. It is true that the organised opinion of the Powers of the world will disapprove—and has disapproved, on numerous occasions—of any threat to the peace of the world, through the violation by any Power, of any of these clauses. Beyond that, however, it cannot, and probably will not, go. It will content itself with protests, and will not back them by force. In India, on the other hand, if our proposals are accepted, the British Parliament will become the guarantor of these clauses. It is well known that that the sanction of the British Parliament is the most potent, the most effective, and the most efficacious in the world. No person, or body of persons, in the British Empire can challenge its authority. I may be permitted to give a very brief outline of the procedure which is normally adopted by the League in dealing with the petitions of minorities against those Powers which have signed the minority clauses. Such petitions are communicated direct to the Secretariat of the League of Nations and the latter must see if the following conditions are satisfied. These are, that petitions must (1) have in view the protection of minorities in consonance with the minority clauses of these treaties; (2) must not be couched in the form of a desire for the rupture of political relations between the minority which petitions and the State of which it forms a part; (3) must not be anonymous or unauthenticated; (4) must observe restraint in language; and (5) must contain information or refer to facts which have not recently been the subject of a petition submitted to the ordinary procedure. If these conditions are satisfied, then the League Secretariat sends these petitions to the Governments concerned for remarks and observations. The Government must reply within three weeks, and if it wishes to submit observations, has two months, with a possible extension, in which to prepare them. Petition and comments are then circulated to all members of the Council of the League of Nations, and examined by the Committee of Three which is a committee of the Council. The Committee submits its report to the Council. Thereupon any member of the Council may formally raise the question and then the League starts an exhaustive discussion of the matter in dispute. It may refer the matter, after preliminary inquiries, to the Permanent Court of International Justice, at The Hague. The opinion is now gaining ground that all such questions

should, after the formal and necessary stages of a preliminary inquiry are over, be automatically referred to the Court for decision. If this practice become general, it will immensely establish the prestige of the League and consolidate its influence.

(14) India Should be Compared not with England but with Eastern Europe.

I may, at this stage, be permitted to give a brief account of the racial, religious and class conflicts which occur in many States of Eastern Europe. These, I may add, are completely lost sight of by theorists in India, whose knowledge of England, France and Germany, which are unitary and organic States, is so slight, superficial and hazy as to be positively harmful. They look only at the immediate present, and forget the dreadful slaughter and the systematic persecution which religious parties in these countries perpetrated in the sixteenth and seventeenth centuries. It would be no exaggeration to state that France, England and Germany have all passed through that stage of religious and racial conflict through which Eastern Europe as well as India are now passing.

Take, for instance, the case of the Balkans. It presents a problem of races and languages, and religions, which finds its parallel only in India. In each of the four Balkan States—Jugo-Slavia, Albania, Bulgaria and Greece—there is the cleavage of Muslim and Christian. In Albania, the Muslims predominate; in Greece and Bulgaria, the Greek Orthodox Church is supreme. In the kingdom of Jugo-Slavia, the Serbs are orthodox, the Croats, Catholics; while in Bosnia, there are a large number of Muslims. There is, again, the question of language in each of these States. In Greece, there is, besides, a vigorous Jewish minority, possessing a majority in the important town of Salonika.

I may next take Czechoslovakia. Its population is 13 millions. It contains nearly 3½ million Germans, ¾ million Magyars, ½ million Ruthenians, 180,000 Jews, 75,000 Poles, and a large number of Slovaks; besides, of course, the ruling race, the Czechs. The Germans, Magyars, Poles, Slovaks, and Czechs speak different languages, belong to different religions and races, and are animated by different historical, cultural, and racial traditions.

Poland presents the same spectacle. Out of a population of 27 millions, 14 per cent. are Ruthenians; 7·8 per cent. Jews; 3·9 per cent. White Russians; 3·8 Germans; and 0·3 per cent. Lithuanians.

The total population of Lithuania is about 2 millions, of whom 7·6 per cent. are Jews; 3·2 per cent. Poles; 2·5 per cent. Russians, and 2·4 per cent. other nationalities. The population of Austria is 6½ millions. It contains Jewish, Czech and Slovene minorities. In Hungary, out of a population of 7 millions, 550,000 are Germans; 140,000 Slovaks; 23,000 Roumanians; 36,000 Croatians, and 17,000 Serbians. The religion of these minorities as well as their races are distinct. Roumania nearly doubled her territory by the Peace Settlement, by which she acquired Transylvania, Bessarabia, and Bukowina. In Transylvania, out of a total population of 2½ millions, nearly half are non-Roumanian. Here the Magyars are 25 per cent., Saxons 10 per cent., Jews 3 per cent., and other nationalities 2·9 per cent. In the Bukowina there are German colonies, in Bessarabia, Russians and Ruthenians; and in the Dobruja, Bulgars, Russians, Germans and Turks. Besides a hopeless mixture of races, there is a heterogeneous collection of religions. The country contains Roman Catholics, Uniats, Lutherans, Calvinists, Unitarians, Jews and Muslims. Italy acquired the southern part of the Tyrol as far as the Brenner Pass. Of this territory the Trentino is predominantly Italian, while German South Tyrol, from Salurn to the present frontier contains about 230,000 Germans. Again, in the provinces of Gorizia-Gradisca, Trieste and Istria, there are half a million Slavs, forming a majority of the population in all except one or two

Istrian towns. I am greatly indebted to Miss Mair's excellent work on the *Protection of Minorities* for a large amount of information contained in sections 14 to 19 of this chapter. She is not responsible for the views expressed here.

(15) The Jewish Minority in Poland.

The Jewish minority has been a source of trouble to the Polish government, owing to its strong economic position, religious susceptibilities and racial prejudice. Before the War the Jews were subjected to a species of terrorism for which there are few parallels in Eastern Europe. Anti-Semitism spread like a prairie fire on the Continent. The Minorities Clauses, however, inspired confidence, and bred hopes in the breasts of the Jews. In 1925 the latter arrived at an agreement with M. Grabski and a compromise concerning the economic, political, cultural and religious rights of the Jews was arrived at. The latter had found great difficulty in gaining admission to the public services. Under the terms of the compromise they were to be admitted, "in due proportion, to the public services and allowed to hold non-commissioned ranks in the army." The citizen rights of the Jews which had been greatly restricted by old obnoxious laws were to be regulated and the old restrictions removed.

The cultural concessions made in Border Districts were to be extended to Jews; a circular ordering public meetings to be conducted solely in Polish was to be amended, as was the electoral system in force in Eastern Galicia. A bill was to be introduced providing for a Jewish communities law, including an extension of the franchise, the extension of the competence of the Jewish communities, and their union in a federation. State schools were to be set up, with Jewish as the language of instruction, and a considerable number of hours were to be devoted to Jewish studies; public rights were to be given to non-State schools giving instruction in Hebrew or Yiddish, and attendance at religious schools accepted as fulfilling the provisions of the compulsory Education Law. Subsidies were to be given to particularly deserving professional schools. Training courses and State qualifying examinations were to be instituted for teachers in Jewish schools, while Jewish studies were included in matriculation examination for schools where they are taught. The programme for the Jewish school system was to be decided by the Government in agreement with the club of Jewish Deputies. Restrictions on admission to universities were not to be based on religion or nationality.

Jewish schoolchildren were not to be made to do written work on the Sabbath or on Festivals. They and Jewish soldiers were to be allowed to attend Jewish prayers, and Jewish soldiers were to be released from duty on days of Solemn Festivals. Jewish soldiers were to be provided with Kosher food or receive an extra allowance to enable them to buy it. Graduates of the State seminaries for Jewish teachers of religion were to have the same privileges as those enjoyed by Christian priests and theological students especially in matters of complaints and sanitary services in case of mobilisation.

On July 11, 1925, a series of resolutions embodying a part of this agreement were presented to the Cabinet by its political Committee. They included all the educational proposals and proposals for laws establishing the status of the Jewish communities, for the authorisation of the Jewish language on the same footing as other minority languages and for the special allowance to be paid to Jewish soldiers, and were voted by the Cabinet on July 16, 1925.

(16) Minorities in Latvia.

In Latvia out of a population of 1,503,193, 8·86 per cent. are Russians, 4·29 per cent. Jews, 3·23 per cent. Germans, 2·19 per cent. Poles, 0·52 per cent. Lithuanians and 0·25 per cent. Esthonians. The

majority of the population is Protestant, but about 23 per cent. are Roman Catholics, and about 8 per cent. Greek orthodox.

The general provisions for the treatment of minorities were explained by the Latvian Government in a series of reports submitted to the League in 1922.

The constitution of November, 1918, established universal direct suffrage with voting by ballot, and proportional representation for minorities.

An amnesty was proclaimed and all refugees were given the right to return. The right of association was assured to all citizens by Kerensky. Russian and German are allowed in the law courts, and in the case of persons who know neither language, sworn translators are employed. Elementary education is compulsory and is given in the mother tongue of the child. The Ministry of Education has special sections of German, Russian, Jewish, Polish, and White Russian schools, and in districts where there is a minority school the minority is represented on the local education committee. *Twenty per cent. of the members of local councils belong to minorities and* 20 *per cent. of State employees.* According to reports made by the Joint Foreign Committee, Jews do not share in the general equality. It is asserted that the number of Jews employed by the State is unduly small in proportion to their numbers—5 per cent. of the population. The Latvian report to the League classes Germans and Jews together as making 9 per cent. of the State employees, so that it is difficult to establish or controvert this point.

(17) Minorities in Esthonia.

The Esthonian Republic has also shown great solicitude for the rights of minorities, though the latter form only 10 per cent. of the population. Its population is only a million, and of it 3·46 per cent. are Germans, 5·13 per cent. Russians, 0·9 per cent. Swedes, 0·4 per cent. Jews, besides Tartars. Its policy towards the language of the minorities is liberal. In districts where the minority predominates the minority language may be officially used by the local authorities, and communications to the central authority may be made in German, Russian or Swedish. All Esthonian citizens have the right of association. The suffrage is universal. There is no State religion. Elementary education is free and compulsory, and minorities are assured of education in their mother tongue at state expense. A special department of the Ministry of Education deals with minority schools. Minorities have the right to establish independent organisations for the maintenance of their national culture, and to carry on their private relief work in so far as it is not in conflict with the interest of the State. Esthonian nationality is open to all persons domiciled in Esthonia, who were formerly Russian subjects, and were either born in the country, or are entered in the Russian register of inhabitants. Most significant of all is a provision in the Esthonian Code of Criminal Law, Article 45 A, *which makes it a penal offence to use pressure on any person to induce him to forego his minority rights.*

(18) Minorities in Czechoslovakia.

This country contains a large number of vigorous, enterprising, and influential minorities, such as the Germans, Magyars, Jews, Poles, and Ruthenians. The Ruthenian minority complained to the League of Nations in 1921 that Ruthenia had not received the local autonomy assured to it by the Minority Treaty. It also pointed out that their country was entirely administered by the Czechs. The Czechoslovakian Government gave a very satisfactory reply to this complaint. They said that their policy was to develop education in Ruthenia as rapidly as possible, and in the meantime to replace the former Hungarian administrative organisation by an administration of Czech officials. This

was explicitly stated to be a provisional measure, and the Czech officials were being progressively replaced by inhabitants of Ruthenia. By 1922 more than half the State officials were natives of Ruthenia, though of course these were not all Ruthenians. As a matter of fact, the Czecho-slovakian Government passed a language law which was even more liberal than the provision made in the Minorities Treaty. Another Minority in this country, which has sent several petitions to the League of Nations, and based its claim upon the minorities clauses, is the German race. The German were the rulers; they are now the ruled. It is, therefore, only natural that they should feel the effects of some of the measures proposed by the new government keenly. Such measures in a newly-created State deal generally with the question of distribution of land between the dominant race and its subjects. Czechoslovakia, as well as Roumania and Poland, passed a series of Agrarian Laws which gave rise to a number of complaints from those landowners who had engrossed the bulk of the land before the War. The German landowners also complained to the League of Nations in 1922 of the numerous acts of injustice to which they were subjected. They asserted that the language law of February 29, 1920, under which official business may be transacted in the minority language only in districts where 20 per cent. of the population belong to the minority, was contrary to the treaty, and Germans were forced to use the Czech language on the telephone, in shop signs, advertisements and the like. The buildings and archives of the university of Prague held jointly since 1884 by Czechs and Germans had been transferred to the Czechs, and schools were being reorganised in a manner which was unfair to the minority. Lastly, all landed property exceeding 150 hectares of arable land had been placed under State administration, with the intention of transferring it from the hands of Germans into those of Czechs. Disputes went on these and other questions between the two parties for months. There has, however, been a great progress towards co-operation and the policy of the President Masaryk and Dr. Benes has been crowned with complete success. Their aim has consistently been not merely fair treatment of minorities, but a real union of all sections of the population in which the distinction of majority and minority would not be felt. Most of President Masaryk's public utterances contain references to this policy, of the importance of which he has been convinced from the outset. The following statements are typical of his attitude, "our State will, of course, have its national character; this follows directly from the democratic principles of the majority. But since we have other nationalities among us, it must be our constant endeavour that all our citizens shall have full enjoyment of their rights and satisfaction of their legitimate claims. That the hope for the fair treatment of minorities is not unfounded will be clear from the fact that the representatives of the minorities have been admitted to the Cabinet.

(19) Italy and her Treatment of Minorities.

The case of Italy shows conclusively the results that flow from the absence of safeguards for minorities. Though Italy has acquired territories which contain powerful minorities, possessing a high type of culture and animated by traditions of a glorious past, she refused to sign the Minorities Clauses of the Treaty. The effect of this policy was visible in her dealings with the minorities. Indeed, nothing shows more effectively, nothing could serve a better example of the necessity for safeguards, than the policy pursued by the Italian Government. If the clauses had been inserted in her Treaty, and if the League of Nations had been made a guarantor thereof, she would have been answerable to a third party, the League. At the Peace Conference the Italian Government announced that it intended to carry out a wide and liberal policy towards its new German subjects, in respect of language, culture, and economic interests. The Prime Ministers of Italy, Giolitti and Bonomi, had affirmed their intention of respecting local institutions and local customs. But the policy of Signor Muesolini, as unfolded in an inter-

view which he gave in 1926 to a Paris newspaper, is clear and definite. "When I visited South Tyrol, I noticed everything German, church, school, public functionaries, railway and post offices. Now in all the schools of this province, the teaching of Italian language is compulsory, all post and railway officials are Italians, and we are just now about to settle there a large number of Italian families. In this way we shall succeed in Italianising the country, just as we have Italianised the 'Sette Commune' nearby." Beside this may be set a statement of Signor Fedele, Minister of Public Instruction, in the Senate, on June 6, 1927: "Our activity, the object of which is to establish the *italianitá*—never quite obliterated—of the frontier regions, has developed continuously and most satisfactorily. *There is not one educational institution left for Germans or instruction in German.*" The policy of Italianisation in the Tyrol began with a vengeance. In December, 1922, a decree of the Prefect had ordered the removal from all schools of pictures of national heroes of Tyrol. In 1923 a number of German schools were closed, and all German children were obliged to attend Italian schools, where teaching in German was forbidden. In July, 1923, Signor Tolomei enunciated a programme of Italianisation of all minorities in Italy, which was immediately given effect to. The census was revised in favour of the Italian population. Italian was made the official language in the newly-acquired territories, and the use of any other language in the law courts, in advertisement, and public notices, and in official correspondence, was declared illegal. German place-names, names of roads, and even family-names, were Italianised. The use of the name "South Tyrol" was prohibited, and the German *Der Tyroler* was suppressed. German banks were dissolved, and an Italian Land Credit Bank founded in their place; Chambers of Commerce and Agricultural Associations were dissolved, or placed under strict supervision. The German Alpine Union, Catholic Students' Union, Choral Societies, and even Volunteer Fire Brigades were dissolved. The gradual suppression of the schools of minorities was then started in October, 1923. At first German, Croats and Slovenes were allowed as supplementary languages, but in December, 1925, they were completely suppressed. Again, the administration of law in these territories is most oppressive, and thoroughly unjust. All laws and regulations are published in Italian only. There is consequently an inextricable confusion between Italian laws which have never been properly promulgated, and the old Austrian laws which have not been formally repealed. The decree making Italian compulsory in courts completely deprives the minorities of all rights at law. The decree forbids the use of any language other than Italian, in all civil and criminal procedure, written and oral. Persons who cannot understand Italian cannot be empanelled. All documents, evidence, etc., in other languages than Italian are null and void. Again, it is expressly stated that if a defendant does not know Italian, his counsel may not put a question to him in his own language, but must use the judge as an interpreter. Since only Italian-speaking persons may be empanelled, any member of the minority must expect to be tried by a unanimously hostile court. The Slav minority is specially hard hit by the language restrictions. The great majority of Croats and Slovenes do not know Italian at all; and the Italian teachers, officials and even priests supplied to them by the government cannot speak their language, if they were allowed to. Again, local self-governing institutions, which enjoyed a measure of autonomy under the Austrian Empire, are placed under the authority of State officials. This is a very brief account of the measures which the freedom-loving Italians have adopted towards minorities who ruled them for centuries, and whose culture is in no way inferior to theirs. Yet the League of Nations can do nothing in this matter, Italy did not sign the minorities clauses, and she cannot be asked *now* to place her minorities under the protection of the League. If anybody raises this question at a meeting of the League, Italy will promptly reply that it is her

domestic concern, and foreign Powers have no right to interfere. Indeed, the policy pursued by Italy provides a remarkable illustration of the absolute necessity of minority clauses for the protection of minorities.

(20) The British Prime Minister on Minorities Treaties.

I will draw your attention to a statement of the Right Honourable J. Ramsay MacDonald, the British Prime Minister, in the *Sunday Times*. The Indian minorities are in complete agreement with the views he propounds. It is a remarkably clear analysis of the situation, while the methods suggested therein will, I am convinced, be effective. The difficulties experienced by minorities in Eastern Europe are much less acute than those which are met with in India. His statement regarding the success of minorities clauses in Czechoslovakia is borne out by many who have studied this problem in that country. It is instructive to contrast the position of minoriites in Czechoslovakia with that accorded to them in Italy.

Mr. Ramsay MacDonald's statement is as follows:—

"The complete breakdown of democratic Government in Yugo-Slavia, and the establishment of a dictatorship there, is the latest warning which Europe received that, unless its minority problems are solved in a spirit of mutual respect and of give-and-take, there will be grave trouble.

"When the peace treaties were being drafted in Paris those who knew the history of Europe and understood the unsettlement that was latent in nationalism shook their heads over the recklessness of the victors in their treatment of minorities. When the treaties were ratified, leaving Jews out of account, the following figure will give some idea of how they left the matter. Out of a population of 27,000,000 Poland included about 6,000,000 of alien race; Czecho-slovakia, out of 13,000,000 had 3,250,000 Germans and 745,000 Magyars; Hungary, out of 7,000,000, had over 500,000 Germans and nearly a quarter of a million others; Roumania was still worse, for half of Transylvania was alien, Bukovina was German, Bessarabia was Russian and Ruthenian, the Dobruja was a mixture of Bulgars, Russians, Germans, and Turks.

"Since then Greece and Bulgaria have recognised Macedonian minorities, and Yugo-Slavia has protested that there are no Macedonians. No attempt was made to settle the Bulkan States in accordance with race, President Wilson explaining that the principle of self-determination was to be applied only to defeated States. Thus Macedonia has been left to splutter and boil and protest, and the conflict between other nationalities, which Dr. Benes reveals in his interesting *War Memoirs*, has been allowed to continue. Nor must cases like Alsace and the Saar be left out of account in a survey of the minority problem.

A Double-edged Weapon.

"However great is the emphasis which one puts upon nationality as an element in democratic government and in peace, it is a double-edged weapon. The League of Nations has found it an awkward passion to pacify by justice, and the democrat who finds that the whole of his favoured system of government depends upon a willingness to co-operate in keeping political machinery going and in reforming it whilst it is going, also finds an uncompromising nationalism an irritating and dangerous obstruction. No political genius can provide frontiers for European States which will follow with fidelity racial divisions.

"The populations are too much mixed up, and there are islands of races which can neither be formed into separate States nor be connected politically with their parent stock. In the common interests of peace, and as a defence of democratic institutions, we

have therefore to consider what are the rights of minorities, and what state of policy should be pursued regarding them. Obviously the aims should be to make the minorities comfortable in the State of which they are a part, so that they may co-operate in its general life.

Composite States.

"Some of the 'Succession States' are frankly composite in race, like Czechoslovakia and Yugo-Slavia. The problem here is different because it is no question of readjustment of boundaries but of liberty, justice, and co-operative government.

"With them we must not be too impatient. These people have bitter and hot memories which must have time to become normal.

"The feelings of some of the races just freed from Magyar are German and Austrian domination cannot be expected to be serenely Christian. If people who recently were dominant in Austria were cavalierly treated by Czechoslovakia to begin with, that must not be taken too seriously if it is clearly only a first phase. In these States, moreover, racial differences are intensified and complicated by religious differences.

"The rules to be applied in them are really simple so soon as their political problem is objectively regarded. There should be no distinctions in the enjoyment of the rights of citizens; language and religious differences should be respected in law, administration, and education; where races can be formed into provinces, self-administration should be granted. Men who have been wearied by the apparently endless creation of frictions have often told me that when liberal policies have been begun the equalities given under them have only been abused. What cure is there for this but patience in well-doing? What makes abuses increasingly harder, and the democratic method of doing the right thing and then actively meeting by propaganda the mischief-makers is the best way for protecting the State against internal disruption.

Czechoslovakia's Condition.

"That method is being pursued in Czechoslovakia, and, though I still get memoranda of grievances from minorities in that country, each succeeding visit I make there convinces me of the growing solidarity of the State. How different it is in Yugo-Slavia, where the policy of 'the Serbisation of the Croats' has created a situation in which neither the one race nor the other will co-operate, and where the State seems to have been faced with the alternatives, both equally evil, of an endless Parliamentary deadlock, or a dictatorship which no observer believes is to be a short one.

"Italy is pursuing the same policy as the Serbs, and can do it for the time being—but only for the time being—without disturbing Europe. The Peace Treaties give a large German and Slav population to Italy which, by every repressive power it can command, it is trying to Italianise.

Access to the League.

"In view of the conditions under which these territories were attached to their respective States and of the fact that it was done as the result of a war for which we all had to pay and suffer, such minorities as these ought, as a last resort, to have access to the League of Nations as a body of conciliation. It is a great misfortune that the powers given to the League to observe the obligations of States to minorities did not apply to old States like Italy, and that, such as they were, they have been weakened in practice. That should be ended at once, and an effective League supervision should be restored.

"The technical difficulties of presenting petitions should be removed, and the defence of the accused responsible States should be made public. A permanent Minorities Commission ought to be established similar to the Mandate Commission, and the diplomacy of hush should be banished from its work. Dr. Stresemann, after his provoked outburst at Lugano in December, gave notice that he would raise the whole question of the protection of minorities at the next meeting of the League. Everyone who cares for the continuance of democracy and the establishment of peace in Europe will wish him well."

(21) President Masaryk and Minorities.

I may be permitted to quote the following from Dr. T. G. Masaryk, the first President of the Czechoslovak Republic. His policy towards minorities in Czechoslovakia has been crowned with complete success:—

"Politically, the Germans are the most important of our minorities, and their acceptance of our Republic will simplify all the other minority questions. Alongside of the Germans we have a few Poles, more Little Russians, and still more Magyars. To them also the rule applies, that the rights of race must be respected. Local Self-Government and proportional representation may, in a democratic State, serve the purpose well. Each minority, too, must have elementary and secondary schools of its own.

"For us, who live in a country racially mixed and so curiously situated in the centre of Europe, the language question is of great moment, politically and educationally.

"Before the War, I took part in the controversy whether the authorities should be unilingual or bilingual. *In present circumstances I think it more practical that they should be multi-lingual though, during the transition period, it may be better, in some bilingual offices, that officials should work in one language only.*

"In practice, the question is one of knowing the languages spoken in the country. It is in the interest of racial minorities to learn the State language, but it is also in the interest of the majority to be able to speak the languages of minorities, especially that of the biggest majority. The teaching of languages in schools will be aranged on this basis.

"*In a democracy it is obviously the right of every party to share in the administration of the State, as soon as it recognises the policy of the State and the State itself. Nay, it is its duty to do so.*"—(*Making of a State, pages* 386 *and* 387.)

(22) Indian Muslims and Rights of Minorities.

I have discussed this subject at length, because I feel that the position of Indian Muslims is liable to be misunderstood. We are not, and have never been, reactionary. We do not wish to create an *imperium in imperio*. We are as desirous of the constitutional progress of our motherland as any other community. We will, however, strongly oppose any scheme in which our rights are not safeguarded. We do not claim anything that is inimical to the welfare of our country, or inconsistent with her national aspirations. We are proud of the noble heritage of culture which India boasts, a heritage which has rendered inestimable services to humanity. All that we claim is that our rights should be safeguarded in any re-arrangement of the Indian Constitution. We have a perfect right to point to the rights guaranteed to minorities in Eastern Europe, as well as to the rights exercised by us at the present time, under the existing law, and to ask for a guarantee that these rights shall be secured to us in a parliamentary statute. I am very glad that our Committee has unanimously agreed to these rights, and I hope and believe that the Parliament will ratify this agreement, for, after all, they concern the two communities alone.

CHAPTER IV.

UNITED PROVINCES MUSLIMS AND PUBLIC SERVICES.

(1) What part does administration play in India?

In no country in the world are the " Services " as important an agency of public good as they are in India. Nowhere are the public servants, under the Government as well as local bodies, so almost exclusively looked up to for guidance, for control, and for active help as in India. In the modern political organisations, India still affords unique opportunities to the public servants of contributing to the growth, the prosperity, the peace and the happiness of the masses as much as of the classes. No other agency is here in such intimate living contact with the masses, and has such an overwhelming share in the shaping and control of their destiny. For good or for evil, the Services have, ever since the uprooting of indigenous self-governing institutions two or three centuries ago, directed and controlled the nation's destiny, and executed its policies almost exclusively. And for another quarter of a century at least will this continue to be so, while India laboriously and with many a lapse and travail accustoms herself to those new and modern methods of Swaraj which are being fast evolved or imported.

The struggle and the bitterness about representation of the different communities in the Services has thus a very much deeper meaning and a nobler significance than merely that of loaves and fishes. As Mr. A. Rahim points out, whatever the ostensible " constitution " or policy established, a very great deal does, and for decades to come must, depend on how and who directs and operates it in actual working. The number of public officials may constitute only a microscopic minority of the total population, yet it is because they are virtual directors of the nation's destiny that Britons and Indians—Hindus and Muslims—are competing so eagerly for their due share in them. We are free to acknowledge that the Reforms have by bringing India face to face with the problems of self-government precipitated the struggle for power and emoluments of office and, in fact, for control of the entire machinery of the Government. As the process of withdrawing is steadily in operation, as more and more people new to power come into sway, the more will the experience and training, the technical skill and administrative efficiency of officers be effectively used and valued. As we approximate more to Swaraj and real self-government, the more will the influence of these guides, philosophers and friends of the public bodies and leaders increase in the first instance; and the more will there be action and reaction of opinion and actions, public and official.

It is by way of recognition of these factors in present and recent politics that the Lee Commission has emphasised the need for Indianisation of the Services, and as a present ideal fixed the percentage of Indians in the Superior Services, at 50 per cent. in the I.C.S., 50 per cent. in Police, 75 per cent. in Forest, 60 per cent. in Irrigation, 50 per cent. in Customs, 75 per cent. in the Telegraph and Railways. In actual working out, however, and because of not fixing higher ratios of immediate recruitments, these percentages are nowhere established. The Government of India had to admit in 1924 that the percentage of Indians in all Superior Services under it was only 2.9 per cent. for Muslims and 20 per cent. for Hindus. The Lee Commission, however, grievously failed to carry the policy of fixation of ratios to its logical conclusion, and omitted to fix similar definite ratios also between the Hindus and Muslims and other minority communities sufficiently important in any province. That this fixation is even more important and necessary is proved undeniably by unfortunate incidents and positions in the different Services. In some cases, officers utilise their position to carry on communal propaganda or sow the seeds of internecine warfare by sectional favouritism and injustice. A Governor of Bombay left the shores of India with the parting wail that even his responsible popular Minister could not

resist the lure of power and patronage to surround himself with a permanent staff recruited almost exclusively from his own community. Even in the hallowed preserve of Law and Order, this virus seems to have invaded it, in spite of the fact that it is the one department of which the Government is justly proud, and for which India pays so heavily, the Bihar and Orissa Police Administration Report admits: " In two or three cases Police Officers permitted religious fervour to obscure their judgment and prejudice their conduct."

(2) What will be the position of Muslims when Provincial Autonomy is given without representation in the Services.

If such is the position while a centralised bureaucracy still reigns supreme, how much more will it be so under Indianised and self-governing conditions, when the present checks are removed and " the powerful central idea of Government by majority " comes into full operation. Unless a fixed, frank and uncompromising ratio is mutually settled between at least the two communities who aspire to Indian Swaraj, and its principles accepted and legalised in parliamentary statute, not only will constant bickerings soil our records of self-government, but the greatest of all human tyrannies will reign supreme in India: the tyranny of an unmitigated oligarchy of caste or creed over free and democratic Islam. Policies, however generous, humane or progressive, will be carried out exclusively for the benefit, and to perpetuate the monopoly of majority communities, and there is a serious danger of the claims of minority communities, whether Hindus or Muslims, being ignored. Even in the matter of educational, industrial, and commercial developments, the influence of officers and of Government action is unique in India, as evidenced by present legitimate advantages and privileges enjoyed by contractors as opposed to other foreigners and even sometimes to Indians. If this is so of a constitutional foreign power, then to how much greater lengths could Indian majority community officers carry their exploitation of minor communities officers can be more easily imagined than described. Even under the moderating influence of irresponsible and irreplacable bureaucrats, certain castes have secured preponderance in many grades of services.

It is sometimes said that the question " of loaves and fishes of office " is a sign of India's " slave mentality." But Muslims know what there is behind all this palpably fallacious argument as well as behind the accusations of " slave mentality, selfishness, petty-minded obsession with bread and butter," etc. They insist on taking their due share in " serving " the Motherland. They are willing to and have died fighting even against Muslim foreign powers, as their record during the last great war shows conclusively. There is no community in India which sent a greater proportion of its members to the battlefield. That the Services will give them ample opportunities of serving their own community and the Indian nation is not difficult to comprehend. That here in the United Provinces such service of their community is called for is apparent alike from their own depression and the assertiveness of the majority community.

(3) What has been attempted in the past.

The Governor of Bengal in Council, in 1925, publicly announced, " that Government must give due consideration to encouragement of education in the Muhammadan community by provision of Government employment for them to a reasonable extent. . . . Apart from the official duties, administrative officers of the Government are, through their position, able to exercise a beneficent influence over the lives and general fortunes of the people; and the Governor in Council has met with numerous instances in which Muhammadan officers have advanced the interests of their community. Without a larger proportion of Muhammadan officers than now employed the interests of the population as a whole are not

likely to be secured. Putting aside the natural reliance of the several communities on officers of their own community in times of tension, the Governor in Council considers it inevitable that Muhammadan officers will be in closer touch and sympathy with the needs and aspirations of their community than any other officers."

This was two years after the united efforts of Messrs. C. R. Das, Sutesh Bose, Moulvi Abdul Karim and others to " secure the rights of each community as the foundations of self-government."

Mr. C. R. Das' Bengal Pact " established the real foundation of Swaraj as far as Government posts " were concerned as follows:—" 55 per cent. of Government posts should go to the Muhammadans to be worked out in the following manner:—

> " *Fixing the tests for different classes of appointments.*—The Muhammadans satisfying the least test should be preferred till the above percentage is attained; and after that, according to their due proportion, subject to this, that for the intervening years, a small percentage of posts, say 20 per cent., should go to the Hindus."

Unless the principle of representation of our community in the public services is embodied in an Act of Parliament, we will never be able to secure our due share in the administration, as some Indian Secretaries, Heads of Departments and Superior Officers aided by majorities in the Boards and Legislatures, may frustrate the attempt to establish this equitable ratio, by means which are too well known to enumerate, and which have so far naturally resulted in uniform preferences given to relations, co-religionists, caste brethren, and sub-caste relations. Such officers should be put out of the reach of the perfectly natural, if by no means excusable, tendency to prefer their own people whom they know well, to recruits of Muslim, Christian or aboriginal and other minority communities whom they do not know. The proportion of communities in the Lower Services is inevitably controlled by the ratio among the Heads of Departments and the higher controlling officials and their lower Secretariats.

(4) Government of India on the Question.

Sir Malcolm Hailey, as Home Member, laid it down in 1923 by public declaration that the definite policy of the Government of India was to prevent the preponderance of any community, caste or creed in the Services under its control. The Local Governments followed up this salutary lead, and the Bengal Government in 1925, laid down by order of Governor in Council, " that in 45 per cent. vacancies filled by direct recruitment, Government reserves the right to appoint Muhammadans alone, provided they possessed the minimum qualifications or secured only the qualifying marks in competitive tests." In the Bengal Secretariat staff 33 per cent. of all vacancies are reserved for Muhammadans " and the very minimum proportion is to be immediately established." The Bombay Government has made it obligatory in all recruitment to give " a fair proportion to Muslims in the Presidency proper and 50 per cent. in Sind." The Madras Government has " accepted the policy of giving preference to candidates from communities which have not got a due share of appointments in the Public Service, and accepted the proposal of the Muhammadan Staff Selection Board that in proposing lists of candidates suitable for clerical as well as other appointments in public service the following percentages should be adopted as a general rule:— " Non-Brahmans 40 per cent., *Muslims* 20 per cent., Brahmans 20 per cent., Indian Christians and Anglo-Indians 10 per cent. Depressed classes and others 10 per cent. The United Provinces Government notified on May 29, 1923, that of the six vacancies to be filled in the Provincial Executive Service two shall go to the Muslim." Similar acceptance of Sir Malcolm Hailey's policy has been made by all Local Governments. Their policy is explained on pages 379-381 of this Note.

(5) Policy of Definite Fixation of Ratio.

The policy of definite fixation of ratios of various communities in the public services by the Government is fairly old and authentic. The agitation was started by an educational officer himself, and a proportion was fixed in Bengal, and in 1893 the Government laid down that " provided qualified candidates are available, necessary orders should be issued to the Education Department and all District and Municipal Boards to appoint *only* Muhammadan candidates till the proportion (of about 52 per cent.) is reached. Circle Inspectors were to follow a similar principle in appointments of teachers in Government High Schools. It must be most disheartening to the Muhammadan people to find their brethren almost wholly excluded from appointments, and this must react most injuriously on their educational advancement."

In 1901, however, the Secretary to the Government remarked severely on the whittling down of this order in actual working, and a fresh order was issued to the Heads of the Departments, saying, " Notwithstanding the distinct orders of Government on the subject, only 26 out of 582 teachers in Government service were Muhammadans. Inspectors of Schools are to adhere to the degrees laid down as qualifications for the vacant posts, and not to give preference to a Hindu possessing a higher degree which is not an essential qualification for the vacancy."

At long last something like a fair proportion of Muslims has been reached in this one department in Bengal. And it is a significant commentary on the false and mischievous alarms raised about " efficiency suffering and Muslims being incompetent," that in this of all departments there has been no complaint from Government or grievance of inefficiency from the public, nor have Muslim officers failed to reach the very highest posts in which academic learning and high literary as well as inspecting and touring abilities are essentially called for. " The efficiency theory " has been exploded in the case of the European Services (where it certainly had some semblance of valid justification, ever since the organised agitation against the Ilbert Bill in the time of Lord Ripon), and it ill behoves a professed " nationalist " community to revive it. My community can dignifiedly ignore this insulting challenge after having founded empires and given to Europe its " chivalry " (the very word is Saracenic), its Cordova and Granada, its mathematics, science and philosophy, its paper, mariner's compass and Algebra, as well as its religious toleration, democratic constitution and its initial Renaissance from the Dark and Middle Age barbarities. The problem of Muslim middle class unemployment is growing as acute as any other, and effectively refutes the statement of interested persons that qualified candidates are not available. Now the paltry " 5 per cent. Muslim officers ratio in the whole of India " which was complained about in 1924 by Mr. Abdul Karim in the Council of State is inevitable.

I may be allowed to quote the following from Mr. E. C. Bayley: " Is it any subject for wonder that they (Muslims) held aloof from a system (of education) which, however good in itself, made no concession to their prejudices, made in fact no provision for what they esteemed their necessities, and which was in its nature antagonistic to their interests and at variance with their social traditions? " Sir W. Hunter, even more tersely observed, from his first-hand knowledge as the official chronicler, that " the astute Hindu has covered the country with schools adapted to the wants of his own community, but wholly unsuited to the Muhammadans. The language of our Government schools is Hindi, and the masters are Hindus." The Madras Government in an official resolution declared: " The existing scheme of instruction was formed with too extensive (and intensive) a reference to the requirements of the Hindu students; and the Muhammadans were placed at so great a disadvantage that the wonder was not that the Muhammadan element in the schools was so small, but that it existed at all." After this comment it is useless to prove what should be the basic principle if Government

want, as the Governor in Council declared in Calcutta, " to encourage Muslim education and prevent the monopoly (in the Services) of any class."

I repeat that the question of Services is essentially a national and fundamental one. It cannot be contemptuously, and with dexterity, waived aside as a problem of India's slave mentality; when in the near future it will be the Indianised officials and autonomous Cabinets and Boards from which such " boons " will be craved, presumably with equal alacrity and subtlety by our brethren.

(6) Modern India: Result of Efficient Administration.

It is my firm conviction that to Muslims, and I may add, to a large number of persons belonging to the various communities, religions, castes and races of India, the question of administration is a question of political and economic existence. I hope that this statement will not be exposed to the charge of exaggeration, when I explain to you the peculiar, nay the essential features of public administration in India. The great powerful and influential official hierarchy which our national King, Akbar the Great, built up and which subsequent administrators have perfected, has played a leading part in the development of this country. It has built canals, established law and order in the country, provided an excellent system of roads, and established and methodised the collection and assessment of land revenue. I may go further and state that modern India is the work of a devoted band of officials, both English and Indian, who by their vigour, energy, enterprise, and devotion, have made, and are still making, the great, and, let us add, the only safe course that leads to responsible government and dominion status. I do not deny, indeed, I should be the last to deny the part which various local bodies have played in this process. I have never denied the utility, nay the absolute necessity, of local self-governing institutions. They contribute to the development of local centres of thought and action. Nor do I deny that they form the habit, among the inhabitants of a town or district, of bringing their knowledge and capacities into common stock for the benefit of the whole community, making those friendly personal relations which benefit neighbours, and develop a capacity for give-and-take. The heaping together in such an assembly of various elements of power, the conjunction of forces of rank, wealth, knowledge and intellect, naturally make such institutions a sort of foundry in which public opinion is melted and cast, where it receives that definite shape in which it can be easily and swiftly propagated through the whole province, deriving, not only an authority from the position of those who form it, but also a momentum from the weight of numbers in the community whence it comes.

I have thought it necessary to state this, in order that the position of my community might not be misunderstood. All that I claim is that the official in India exercises an influence which is hardly inferior to the influence of local self-governing institutions. This does not mean that he acts as a rival to the latter, nor does it imply that the local bodies are in any way unfitted for the task with which they are charged. My contention is that the ideal of all Governments in India—and in this I include the Mughal as well as the British Government—has always been to bring the active, planning will of each part of the Government into accord with the prevailing popular thoughts and needs, and thus make it an impartial instrument of symmetrical national development, and to give to the operation of the Government thus shaped under the influence of opinion and adjusted to the general interest, both stability and incorruptible efficacy. I do not, of course, claim that this ideal has always been realised in practice; nor do I deny that in some cases acts have been committed by the Government and methods adopted which are unworthy of any civilised Government. It must, however, be admitted that

the best type of officials in India—and in this category I include both the English and the Indian officials—have always placed this ideal before them, and tried to carry them out. I may go further and state that the official in India is the balance-wheel of the constitution.

It is no doubt true that the Legislature will give a specific mould to the Government, and the party in power can, if it has the will and the opportunity, mould the administration. But administration in India is not merely a question of loaves and fishes. It is a question of power, of opportunity and of service. A Tahsildar or a Deputy-Collector wields an influence which is wholly disproportionate to the amount of pay he draws.

(7) Position of United Provinces Muslims in Government Services at the Present Day.

I have deemed it necessary to restate the main principles upon which Indian administration is based. The part played by the Muslims in the executive services of these provinces is known to all who have had experience of their work. The great majority of officers who helped the British in the maintenance of law and order, the evolution of various institutions, the revenue system, the police, the judiciary, etc., were Muslims.

Impartial, disinterested and experienced officials have testified that Muslims possess executive ability of a high order; they have acknowledged their driving power, enterprise, dash and power of command. The Muslim Deputy-Collectors and the Muslim police officials contain some of the smartest and most successful administrators in India.

I would like to refer you to another point, which is of special importance to us at the present. The present political atmosphere of the country is surcharged with racial and communal rivalry, almost in every branch of life.

(8) Riots in the United Provinces, and their Significance.

According to the information supplied by the United Provinces Government to the Local Legislative Council on 21st December, 1927, between 31st March, 1921, and 21st December, 1927, restrictions were imposed on 700 religious processions in 40 out of 46 districts of the United Provinces; 90 communal riots occurred in various parts of the United Provinces; during these riots 39 Hindus and 42 Muslims lost their lives, while 1,566 Hindus and 735 Muslims were wounded. This is a record of which every Indian ought to be ashamed. Yet, this is an index to the feelings of the two communities in one province alone. It is satisfactory to note that the leaders of the two communities are engaged at the present time in devising remedies for this disease. It is also satisfactory to note that the relations of the two communities have improved considerably during the last eight months. The occurrence of riots creates an atmosphere of suspicion and distrust, and intensifies the feelings, embitters the relations and wounds the sentiments of all the communities. Hindus accuse Muslims of aggression. Muslims charge the latter with various crimes. I do not think it necessary to apportion either praise or blame between the two communities. I cannot indict a community of 68 millions on the one side or a community of 210 millions on the other. But it cannot be denied that the communal feeling and racial rivalry which have found expression in communal riots have begun to influence the administration. When the feelings of two great communities are greatly strained, when law and order cannot be maintained adequately and effectively, it is necessary, nay, it is absolutely essential, that the administration should inspire confidence. If this element is lacking in any administration, if one community thinks that the life and property of its members will not be safeguarded, if it suspects the motives, distrusts the policy, and dislikes the presence of the administrator, the whole system stands condemned. The official, then, has forfeited all claims to respect; he has

lost the confidence of the public, and has deprived himself of the chief instrument which preserves his power, strengthens his influence, and consolidates his prestige. Yet this is bound to happen, if there is a preponderance of any community or caste in the administration.

(9) Lack of Social Solidarity in India.

In other countries, racial, religious and communal rivalries, differences, and distinctions are mellowed and softened, and sometimes entirely eradicated, by constant, cheerful and happy social intercourse. Inter-marriage goes far to soften political asperities, inter-dining creates a feeling of brotherhood, and a sentiment of comradeship is fostered which contributes to the growth of a common civic feeling, a feeling in which sentiment, reason, will, and feeling combine in harmonious proportions, and create that patriotic fervour and national consciousness which transcend the boundaries of religion, race, and language. The example of Switzerland shows how such differences can be surmounted and a united nation developed out of material that seems at first sight to be thoroughly unsuitable and unmalleable. Every Government, as Burke has finely said, is not merely a Government of laws, but also a Government of men. In India, unfortunately, this is not the case. Non-Muslims do not marry into Muslim families; they will regard any food touched by the Muslims as impure; they cannot dine together; while social customs make it absolutely impossible for a Hindu to maintain that social level which are the pre-requisite of all democratic Governments. In religion and customs, they are poles apart,. Religious differences would not have retained their vigour if social intercourse had been frequent, happy, unrestrained and cordial. Unfortunately, such conditions do not operate in India. It is true that the number of unorthodox Hindus has increased; it is also true that such Hindus mix freely and easily with the Muslim; and it must be admitted that the Hindus have made considerable social progress in the Punjab. It must be confessed, however, that the latter constitute only a microscopic minority. It is well known that they exercise little influence in social matters on the vast bulk of the Hindus.

These reasons make it imperative that all the communities in these provinces should be represented in the administration of the provinces. If this is not done, the administration will not inspire confidence; it will be dominated by an oligarchy of a particular caste or a particular community which will monopolise all the posts, manipulate the whole governmental machinery in its own interest, and produce a state of affairs which will lead to constant warfare between various elements of the population.

(10) The Question of Efficiency.

It may well be asked, why not appoint the most efficient men, irrespective of caste, communal and religious considerations? I am entirely at one with those who insist on efficiency. I believe that if inefficient men are appointed to any post, all communities, nay the whole country, will suffer. But the standards and criteria of efficiency must be clearly laid down. Unless this is done, particular castes with peculiar aptitude for a special kind of work will pack all the offices, exclude members of other castes, and will become corrupt, greedy, selfish and tyrannical. Efficiency must be interpreted in its truest and most appropriate sense. I may be permitted to give an instance. The executive service—whether provincial or Imperial—needs qualities and demands virtues which are different from those required by accountants and schoolmasters. If the executive lacks continuity in policy, promptitude in action, courage to enforce its decision, judgment in the selection of officials, and the possession of special knowledge and technical skill, it will fail miserably. Efficiency has consequently reference to the end in view. If a person is efficient, he must be so for a particular post. He cannot be efficient *in vacuo*. It has, however, happened on several occasions that though

capable, efficient and suitable Muslims for various posts were available, though they applied, and were in every way deserving of appointment, non-Muslims were actually appointed, simply because the word " efficient " was interpreted in a way that suited non-Muslims. I need only refer to the proceedings of the local bodies, many Indian universities, and other bodies for confirmation of this statement.

Again, though I regard efficiency as a criterion, I do not regard it as the only test in appointment to various posts. I think that in a country where various communities, races and creeds occupy different educational, economic and social levels, where the fact of caste determines the position of a member of a caste in the social scale, it is inevitable that other considerations than those of efficiency will, and must, be taken into account Character as well as efficiency must be taken into account. I believe that in India there is not only a probability but also a certainty of public services being monopolised by a clerical caste, possessing plenty of book knowledge and an unusal faculty for cramming for examinations, but no modicum of common sense, and little grit of character. If such gentlemen are imported into the executive services, they may perform their ordinary duties admirably, but they will fail miserably in emergencies. I have no objection to minimum qualifications being laid down for admission to all services. I think that it is only just and reasonable.

So far as the question of efficiency is concerned, I may say briefly that the United Provinces Muslims are as efficient as members of other communities, and can perform, and are performing, all the duties of their office as efficiently as other communities.

The facts supplied in the United Provinces Muslims' Memorandum to the Indian Statutory Commission show conclusively that Muslims are not properly represented in any Government department, except in the Police and the provincial executive services. Even in these services their proportion is being gradually reduced. In the Education Department, their proportion is very low indeed. It is, in my opinion, absolutely essential to the peace and tranquillity of our motherland that the recommendations of our committee services should be adopted, and a ratio of 30 per cent. fixed in all.

(11) How Should " Efficiency " be Measured?

I acknowledge that efficiency must be the chief test. But efficiency must not be interpreted in a narrow sense. It must not be confounded with book-learning. There are two factors in measuring efficiency: (1) quality of character, and (2) quality of mind. Both these play an essential part in all criteria of efficiency. Several members of the majority community on the other hand, use efficiency and voting strength as interchangeable terms. If they can appoint their own castemen by sheer voting strength, they can adduce numerous trivial and flimsy excuses for calling him efficient. This has been our sad experience in hundreds of cases all over the province. I believe that the only effective way is to lay down minimum qualifications and to reserve 33 per cent. of all vacancies in all grades of every Government department throughout the province. These vacancies should be filled up by a Provincial Public Service on the result of a competitive examination, or on the candidate satisfying such tests as the commission may impose. The examination will be the same for Hindu and Muhammadan candidates, but Muslims will be selected from among the Muslim candidates, and Hindus from among the Hindu candidates. This principle has been most successfully applied by the United Provinces Government in the Deputy Collectors' examination, where this percentage has been sanctioned for us. I recommend that this principle should be extended to every Government department.

(12) THE POLICY OF "NATIONALISTS" DISCUSSED.

The United Provinces Muslims are represented in the Police and the Provincial Executive of the province slightly in excess of the percentage of their population. This is due to the fact that they possess executive ability of a high order. This has been acknowledged by competent British administrators on innumerable occasions. Yet because their ability, driving power, initiative, and power of command have brought them to the front in the public services of their country, they are pursued by constant attacks in the Local Nationalist daily, *the Leader;* they are baited in the local Legislature by "patriotic Nationalists," and are attacked on the public platform. Why? Because, forsooth, they form only 14 per cent. of the population, and their proportion in these services is slightly greater. This agitation is so utterly illogical and inconsistent that one can only wonder at the simplicity of the belief held by these gentlemen. They are apparently attacked on the ground that their representation in these two departments is excessive. The Muslims may well reply: "All right, we now know that you do believe in the principle of representation in the administration. If so, you should apply it all round, and appoint Muslims in those departments in which they are not represented at all." This is perfectly fair. Yet, while for other departments the principle of "efficiency" is insisted upon, for the Police and the Provincial Executive Service proper representation of the majority community is demanded. The argument is worthy of the trial in *Alice in Wonderland:*—

"That's very important," the King said, turning to the jury. They were just beginning to write this down on their slates, when the White Rabbit interrupted: "*Un*important, your Majesty means, of course," he said in a very respectful tone, but frowning and making faces at him as he spoke.

"*Un*important, of course, I meant," the King hastily said, and went on to himself in an undertone, "important—unimportant—unimportant—important—" as if he were trying which word sounded best.

In fact, the proceedings of nearly all the provincial Legislatures for the last five years are disfigured by numerous questions asked by members on the representation of castes, communities and religions in nearly every department of the Government. The local bodies are also affected by it.

(13) THE POLICY OF THE UNITED PROVINCES GOVERNMENT.

The policy of the Government of India regarding the representations of Muslim in the services has already been quoted in section 15 (6) of Chapter I of this Report (vide *supra* page 307).

I quote below the practice observed by the United Provinces Government in the matter of appointments. From this it will be clear that the right of Muslims to representation in the administration has been acknowledged not only by the Government of India, but also by the Local Government.

The following letter from Mr. T. Sloan, I.C.S., Special Reforms Officer, United Provinces Government, to the Indian Statutory Commission supplies all the available information on the subject.

It is dated 12th December, 1928, and is addressed to the Secretary, Indian Statutory Commission, Lucknow.

The letter makes it perfectly clear what the practice of the Local Government has been in the past.

"When the Muslim deputation were giving evidence before the Joint Conference I was asked whether this Government had ever issued any announcement or resolution declaring their general policy in the matter of the representation of minority communities in the public services. I informed the Chairman at the time that no such announcement or resolution had been made. There is in the Manual of Gov-

ernment Orders (paragraph 345A) a paragraph drawing attention to the necessity of securing a due admixture of castes in Government service, in order to prevent a monopoly of Government employment by particular sections of the community, and to secure the admission to the services of castes hitherto either unrepresented or represented only to a small extent. That paragraph is based on an order of the Governor-General in Council, dated January 20, 1911. The object of the orders was, I think, to prevent caste cliques in Government departments rather than to secure representation of minority communities such as the Muslims.

2. While, however, no general policy has been announced, there is a well recognised practice of securing a certain proportion of representation to Muslims; in regard to certain services the practice is authorised by definite rules. In other services it would seem to be on convention rather than definite rule. I give below examples from different services:—

(1) In the United Provinces Civil (Executive) Service, one-third of the vacancies to be filled by competitive examination is definitely reserved by Government order for Muslims (paragraph 38 of the Manual of Appointments and Allowances). A proportion of the numbers of this service are appointed by promotion from the rank of tahsildar, and the generally recognised distribution of appointments so made is five Hindus to three Muslims.

(2) United Provinces Civil (Judicial) Service—Rule 4 of the rules regulating appointment to this service prescribes that in making appointments endeavour should be made to secure the due representation of the different classes and communities. No definite proportion of vacancies is, however, laid down for any community.

(3) United Provinces Police Service—Under rule 4 of the rules regulating appointment to this service the Governor in Council is empowered to announce, with a view to prevent the preponderance of any community in the service, the number of vacancies which shall be reserved for particular communities. No definite proportion is laid down. As a matter of fact the Muslims actually preponderate in this service.

(4) Recruitment to the Provincial Forest Service is at present in abeyance, but the rules prescribe that the names of candidates who head the list at the examination up to double the number of vacancies are to be submitted to Government for final selection in order, so far as possible, to give effect to the principle of adequate representation of different communities.

(5) In the Subordinate Revenue Service it is laid down that not less than two and not more than four Muslims shall be taken for every five Hindus, the ratio being determined in each year according to the comparative merits of the candidates.

(6) In the case of sub-registrars there is no rule nor definite order prescribing the representation of minority communities, but in the last four years Muslims and non-Muslims have been appointed in the following proportion:—

1925	...	...	...	...	...	...	...	3 to 5
1926	...	...	...	...	...	...	...	2 to 3
1927	...	...	...	...	...	...	...	6 to 12
1928	...	...	...	...	...	...	...	4 to 6

(7) In the Subordinate Educational Service there is an established convention that 30 per cent. of the total number of appointments are made from the Muslim community provided that qualified candidates are available.

(8) In the Excise Department there is an order that in the recruitment of excise inspectors 30 per cent. should be Muslims.

(9) In the Co-operative Department there is a definite order that one-third of the new appointments of inspectors and assistant registrars should be given to Muslims.

(10) In the Agriculture Department the usual rule in making appointments to the Subordinate Agricultural Service is to appoint one Muslim to every two Hindus.

(11) In the Subordinate Police Service there is a regulation that Muhammadans shall not be allowed to absorb more than half the appointments.

3. These examples are sufficient to show that while Government policy has never been announced in general terms, the practice in the various departments has been to secure either by definite rule or by convention a proportion of Muslims which in most departments has been fixed at 30 per cent. T. SLOAN."

(14) MUSLIMS WANT A GUARANTEE FOR THE FUTURE.

The chief reason why I want safeguards in the services is that they require a guarantee not only for the present, but also for the future. Let me explain my meaning. The position of my community in the public services has been affected since the Reforms. When this happened at a time when the local Legislature possessed only limited powers, when it could make its voice felt only in the Transferred departments, we can conceive the effects that would be produced on my community when the whole Government, and not merely one part of it, is made responsible to it. Such an event is likely to happen in the near future. My community is not in the least perturbed by it. It, on the other hand, has done, and will do, its very best for the attainment of this ideal, but it desires guarantees and safeguards before it can agree to any change. It knows that unless its position in the services is effectually secured, it will fare still worse in future than it has done during the last nine years. Our only basis for this forecast is our experience of this period. I claim that in politics the test of experience is the soundest and the safest. I, therefore, fear that unless this safeguard is guaranteed to Muslims, even the position which has been left to them since the Reforms will be seriously affected. We want a definite and solemn assurance, embodied in a parliamentary statute, that our existence as a community shall not be sacrificed on the altar of any theory that is propped up by any community.

CHAIRMAN'S NOTE

ON THE

EXPLANATORY NOTE OF DR. SHAFA'AT AHMAD KHAN.

My learned colleague, Dr. Shafa'at Ahmad Khan, has considered it necessary to append a rather comprehensive " Explanatory " Note. I do not propose to write a rejoinder to his Note, but as Chairman of the Committee I consider it necessary to make a few observations with regard to it to enable its being understood in its proper perspective.

2. A brief account of what took place in the Committee may not be out of place here. Dr. Shafa'at Ahmad Khan first proposed to write a separate report as he did not agree to the " manner and method " of the report as drafted by a sub-committee. He actually wrote out a document which was six times the size of the sub-committee's draft. Great exception was taken in the Committee to Dr. Khan's draft as it dealt with a number of points which had never been before the Committee, and further, as it had in it a great deal of controversial matter the authenticity of which was disputed. Ultimately, the learned doctor very generously agreed to sign the report as drafted by the sub-committee, provided a few changes in the recommendations were made and he was allowed to append an explanatory note on certain points, such as the rights of minorities, the method of enforcing the minority safeguards,

communal representation, the Governor's powers—subjects which he had specially studied and which, in his opinion, had not been adequately discussed in the Report. He made it clear that, with the exception of a difference of opinion about the retention of the Indian Civil Service and the Indian Police Service, he was in complete agreement with the Committee's recommendations, and he promised that he would not incorporate any dissentient views in the Note, which was to be only an explanatory one. On this understanding the Report was signed at the last meeting of the Committee which was held at Naini Tal on 30th June, 1929. In accordance with this undertaking, Dr. Khan took off a large amount of matter from his original draft. I regret, however, to have to say that the note still does not conform to the description of an explanatory note, and, besides being full of repetitions, contains a great deal of matter which in the interests of all concerned would have been much better left out.

3. My first complaint against the Explanatory Note is that it appears to be designed to convey an impression that the Muslim community in this province is a downtrodden, forsaken minority, and has been very unfairly treated by the Government and the people alike during the last nine years. I cannot help remarking that the picture has been very much overdrawn by my learned friend, if indeed grounds exist for that reading of the recent past at all, and it does not do justice either to the majority community or to the Government which so far had ample powers to protect unfair treatment of one community by another. The Committee decided in the very beginning of its labours not to indulge in the discussion of controversial or acrimonious matters, and it was for this reason that the statements contained in the Memorandum submitted in the name of the United Provinces Muslims were not subjected to a scrutiny. It has been shown that a great many of the allegations contained in that Memorandum are wrong and misleading. Some of them were the subject of interpellations in the local Legislative Council, and the replies given by Government make it clear that the facts are not as stated in the Memorandum. Moreover, certain charges made by the authors of the Memorandum had to be publicly withdrawn by them. Having myself been largely responsible for the spirit of sweet reasonableness which attended the career of my Committee, I do not propose referring to these unpleasant matters in this Note. My other Muslim colleague, Khan Bahadur Hafiz Hidayat Husain, who yields to none in his championship of the cause of his community, was all along entirely with the rest of the Committee; and it is significant that he did not consider himself called upon to append either an Explanatory or a Dissenting Note, or to associate himself with the Note of Dr. Khan. His signature is unreserved and unqualified. Dr. Khan himself admits on page 302 that "it is only by mutual give-and-take that we can solve the communal problem in India." He adds, "It must be confessed, however, that such a trust is lacking at the present time." But while he indulges in such and other statements of a general character, he has done little in his Note to contribute to the begetting of that trust. Almost the whole of page 302 is written in a style that is not in conformity with the extreme good will that prevailed in the Committee. The following sentence is typical:—

> "The structure the new constitution may establish may be excellent, and it may contain the latest devices and the quickest remedies for the Newtonian equipoise of the different authorities it may constitute, but if it solves the communal problem by deliberately ignoring it, it will be like the deep sea-fish, which, when brought to the surface, first swells and then bursts."

Another sentence, appearing in the middle of page 372 illustrates the spirit. While dealing with the representation of Muslims in the services, he says:—

> "Unless a fixed, frank and uncompromising ratio is mutually settled . . and its principle accepted and legalised in parliamentary

statute . . . the greatest of all human tyrannies will reign supreme in India: the tyranny of caste or creed over free and democratic Islam."

On pages 377-8 he indulges in the following generalisation without any evidence to support it:—

"It has, however, happened frequently that though capable, efficient and suitable Muslims for various posts were available, though they accepted and were in every way deserving of appointment, non-Muslims were actually appointed, simply because the word 'efficient' was interpreted in a way that suited non-Muslims."

This is a very unfortunate statement and very seriously open to question. All superior appointments are so far subject to the sanction of the Governor, and the charge, if correct, would therefore be against him.

The reference on page 379 to the nationalist daily, the *Leader*, is as uncalled for and inappropriate as the halting apology for the excessive proportion of the Muslims in the Executive and Police Services.

It is no use burdening this Note with quotations. Practically the whole of Chapter IV contains matter that did not become a member of a community whose demands for comprehensive safeguards had been accorded such favourable treatment by the Committee.

4. The second observation that I have to make is that Dr. Khan's is not an Explanatory Note which deals with "certain important points" that have not been "fully discussed" by the Committee and which found no place in its Report. It is much more. As I have already mentioned, the stipulation that he made when signing the Report was that he would only dissent about the retention of the Indian Civil Service and the Indian Police Service, and a note to this effect was made in the body of the Report at the end of paragraph 75. The "Explanatory Note" does, however, contain a number of new or dissenting recommendations. I do not deny that as a member Dr. Khan had a perfect right to express any view that he liked; but that would have been in a *dissenting* note. The understanding that preceded the arrival at unanimity by the other members of the Committee did not contemplate that. In the circumstances, therefore, any suggestions contained in the Explanatory Note that conflict with the recommendations of the Committee as embodied in its Report—excepting the one about the retention of the Indian Civil Service and the Indian Police Service—should be considered null and void. I will not do Dr. Khan an injustice by picking out the various new suggestions that he has incorporated in his Explanatory Note: they had best be read in original. I would only refer here to the suggestion that he has made on page 309 regarding the fixation of the ratio of Muslims in every *grade* of service. I am compelled to mention here that it was with the greatest difficulty that the Committee could be persuaded to accept, though in general terms, the safeguards about weighted representation of the Muslims in the services. That the Committee permitted itself to go to very extreme lengths of concession will be clear when it is remembered that in Bengal and Sindh, according to the quotations of Dr. Khan himself as appearing on page 373 of his note, the representation of Muslims in services has been reserved at a lower figure than what their population in those provinces justifies. Dr. Khan, while devoting considerable space to the question of weighted representation of the Muslims in the services, goes a step further and says on page 309 that the ratio of the Muslims should be fixed not only in every service but in *every grade* of every service. This is in complete violation of the compromise arrived at by the Committee and incorporated in its Report. Moreover, the practical difficulties of maintaining a ratio in every grade of a service are insuperable. It may be possible to maintain separate lists for Muslims and non-Muslims at the time of recruitment; but it is impossible to maintain separate lists for the two in the various grades of a service. That will work against the claims of seniority at every step, and will be a poisonous principle to adopt.

5. Dr. Khan, I am compelled to say, has not done well to drag in the Nehru Report when the Committee deliberately omitted to comment on it. That document was not discussed by the Committee at all, and any reference to it would appear to be entirely out of place and improper. It seems hardly befitting a responsible Committee like ours to indulge in cheap gibes about a document which has behind it the support of a large and influential section of vocal India, howsoever we may not agree with its recommendations and proposals.

6. These are the few observations that I have considered it indispensable to make with regard to the Explanatory Note of Dr. Shafa'at Ahmad Khan. I deliberately refrain from entering into a criticism of it. I only regret that I have had to say even so much.

J. P. SRIVASTAVA, *Chairman*,
U.P. Provincial Reforms Committee.

Kailas Kutir, Cawnpore:
29th August, 1929.

DR. SHAFA'AT AHMAD KHAN'S REPLY TO THE CHAIRMAN'S NOTE.

(1) I am extremely sorry to have to reply to a Note by Mr. J. P. Srivastava on my Explanatory Note. I have no desire to carry on this controversy at unnecessary length. Had Mr. Srivastava shown his Note to me, the occasion for its publication would never have arisen, as it is based on a complete misunderstanding of what I wrote.

(2) Mr. Srivastava starts his Note by giving details of what took place in the Committee. As his account is both vague and incomplete, I may be allowed to state that the original draft of the Committee's Report was placed before the members on April 25, 1929. I expressed my inability to sign the report, as I found several flaws in the draft. I prepared a separate report, and sent it to the Secretary on May 6. The second draft of the report, which modified the original draft in important particulars, was printed in the beginning of June. Though it was a great improvement on the first, I was not satisfied even with this, and refused to sign it until my proposals were accepted by the Committee. I purposely refrain from detailing these proposals. In the end a compromise was arrived at, a number of suggestions made by me were incorporated in the second draft, and I signed the third or final draft, of the Report. I expressed my intention of writing a Note on topics which had not been fully discussed, as well as on subjects on which the Committee as such preferred not to express its opinion. I, then, went very carefully through my Notes, and made it a point to ask the printers to send a copy of my Explanatory Note to Mr. Srivastava, before it was published. Mr. Srivastava read it, and wrote to me a letter in which he made several suggestions. I made radical alterations in the Note and carried out most of his suggestions. With some of his suggestions, I could not, and did not agree.

This is, very briefly, the history of the controversy. I have tried to the best of my ability to act in a spirit of give-and-take, and have substantially modified my original draft in response to the appeal of other members of the Committee. I did so, because I feel that there is a time for fighting for one's community, as there is a time for accommodation, and compromise. I feel that after the compromise, many points, which had formed the subject of prolonged discussions, have been satisfactorily settled.

I abide by the terms of compromise, and I would advise every Muslim in these provinces to abide by it. The Report is the result of earnest efforts on the part of various interests and communities represented in the Committee, and I hope and believe that the members of the Indian

Statutory Commission, and, through them, the British Parliament, will give that attention and care to its recommendations which its importance demands.

(3) I would not have replied to Mr. Srivastava's Note, but for the fact that my silence might be misconstrued. Mr. Srivastava states that I was "allowed to sign the Report subject to an explanatory note on certain points," etc. I do not know what he means by using the word "allowed."

(4) Mr. Srivastava complains that my Note appears to be designed to convey an impression that the Muslim community in this province is a downtrodden, forsaken minority, and has been very unfairly treated by the Government and the people alike during the last nine years. With regard to the first paragraph of this sentence, Mr. Srivastava is perfectly free to read any meaning into it which he likes. If he wishes to put this construction upon it, he can do so. The second part of the sentence in which he thinks that I have attacked the Government for unfairly treating is incorrect.

(5) Mr. Srivastava quite unnecessarily drags in the U. P. Muslims' memorandum. His reference to the Memorandum of the U. P. Muslims is so unfortunate and inappropriate, that I am astonished at "a Chairman" indulging in such remarks. I am perfectly certain that the supporters of that Memorandum are able to take care of themselves; I do not wish to say anything more about it. I can only express my amazement that Mr. Srivastava should have been advised to refer to this document in a way which cannot but rouse feelings which ought to be the aim of every member of such an important Committee to suppress. The position is aggravated by the fact that he writes as "Chairman" of the Committee. Has he done this on behalf of the Committee? If so, his Note was never placed before it. I will say no more on this subject, as the controversies to which it gave rise are now happily forgotten.

(6) Mr. Srivastava, on pages 382-3, quotes three passages from my Note, to which he takes exception. I do not know on what grounds he has taken objection to the first passage quoted by him. I am perfectly certain he has not understood it. If he had, he would have known that there are few persons in India, to whichever community they may belong, who can take the least objection to the principle enumerated therein.

With regard to the second and third passages, which he quotes on pages 382-3, I see absolutely no ground for complaint. The principle of the fixation of a ratio is, as I have explained in the Note, fairly old, and I am not claiming any right which has not been conceded before. I merely desire the continuance of existing practice, and its logical application.

(7) He then, quite unnecessarily, drags in the Governor, and says that my Note levels a charge against him. A more gratuitous assumption it would be difficult to imagine. I have said nothing against the Governor, for the simple reason that in the matter of appointments to Government Departments every Governor, since the reforms, has done his best to keep the scales even, and treat all communities and classes impartially.

(8) Mr. Srivastava then complains that the Explanatory Note contains a number of "dissenting recommendations." I have never heard such a phrase before. Apparently he wishes to convey the idea that the Explanatory Note should have been confined to an explanation of the terms and proposals embodied in the Report. If this is his meaning, then all I can say is that he has either totally forgotten, or completely misunderstood, the statement I made to the Committee. I made it perfectly clear then, that I wanted to deal in the first place with subjects which had not been fully discussed, and, in the second place, with matters upon which the Committee did not wish to express any opinion.

I felt that subjects like local self-government, finance, and methods by which safeguards should be enforced, were so important that the Committee ought to express its opinion on them. As the Committee did not do so, I exercised my right as a member of the Committee to do it. I had, and have, a perfect right to do so. If Mr. Srivastava prefers to call it a Minute of Dissent, I have no objection to this nomenclature.

(9) Mr. Srivastava then says that my suggestions are " null and void." I am sure that this decision will be read with the greatest amusement by anyone who has the least acquaintance with the procedure of such Committees. A more unreasonable and absurd claim by a " chairman " it will be difficult to imagine. He is probably unaware of the fact that his decision is a gross violation of the elementary rights of members of the Committee. I will say nothing more on this subject.

(10) Mr. Srivastava says that I have recommended representation in every grade of services. This is my interpretation of our recommendations. I am perfectly willing to leave this matter in the hands of proper authorities, who will apply the principles enunciated in the Report, and not to raise a controversy at this stage. I have not put forward any extravagant claim. By representation in services Mr. Srivastava does not apparently mean that if there are 30 per cent. Muslim chaprasis in a department, my community will be adequately represented in that department. Representation in the services implies representation in the Imperial, Provincial and Subordinate grades of each service. This is the actual practice now. The Government of India reserves a certain proportion, generally one-third, of all appointments in the Police and Indian Civil Service, to " redress communal inequalities," while the U. P. Government tries to keep the balance even by reserving a certain proportion for Muslims in many of the Provincial and Subordinate services. Mr. Srivastava seems to have conveniently ignored the existing practice. He says that it " may be possible to maintain separate lists for Muslims and non-Muslims at the time of recruitment." This is all that is meant in the Note. If he had read it carefully, he would have found that the principle to which I refer applied only when a person is recruited to a service. The inference he has drawn from my Note is unjustified. All that I claim is that *at the time of recruitment*, the proportion of Muslims should be adequate. I desire nothing more.

(11) Finally, Mr. Srivastava says, on page 384, that the " Nehru Report was not discussed by the Committee at all." This statement is not borne out by the statement made on page 198 of the Report, in which it is stated that, " in enumerating the material that we have considered, we should also mention the Report of the All-Parties Conference, commonly called the Nehru Report." I do not know how Mr. Srivastava can reconcile these two statements.

Apart, altogether, from this, I do not think I would have been justified, either as a member of the Committee, or as a Muslim in ignoring a document which has profoundly modified the political situation in Inda. How could anybody in India sit in his ivory tower, frame recommendations for the future constitution of India, and ignore the Nehru Report altogether?

My community is vitally affected by the changes proposed in it, and I would have failed in the duty which I owe it, if I had omitted to discuss it.

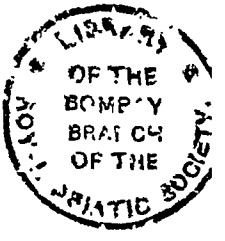
(12) I have written the above with great reluctance. I had absolutely no intention of doing so, but I felt that my silence might be misunderstood. I am very sorry, indeed, that Mr. Srivastava's advisers have succeeded in making him write a Note which, on mature reflection, he will regret.

(13) I have made my position clear. I have buried the hatchet, and forgotten all the controversies of the past. I advise the Muslim of these

provinces to accept the proposals contained in the Report. Muslims, now, should not fight over trifles. They should ignore inessential differences; and concentrate on the big issues. Every minority not only possesses rights but also owes duties. As our rights have, in my humble opinion, been secured, it is now our duty to co-operate with the majority community in the building up of a virile and self-reliant Indian nation. I earnestly appeal to all the Muslims to support the Report.

SHAFA'AT AHMAD KHAN,
25, Stanley Road, Allahabad.

September 15 1929.



Report

of the

Punjab Committee.

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FOREWORD.

The undersigned members of the Committee cannot allow this report to go out without an expression of their grateful appreciation of the services rendered to the committee by the chairman, Captain Sardar Sikander Hyat-Khan. The preparation of the report has fallen mainly to him; but the labour involved, however considerable, in the collection, analysis, and arrangement of data, represents but a small portion of his responsibility.

The reconciliation of conflicting claims; the desire to produce a State document aimed at holding the scales of justice evenly between parties so nicely balanced as to leave minute margins only to cover the needs of the smaller minorities; and through all to bear in mind the need for planning a structure which will, at one and the same time, give dignity to the life of every citizen of this Province, and assure to every individual and community those personal rights which can alone secure happiness, have all been a part of the burden he has carried.

That despite these efforts it has been found impossible to issue a unanimous report, has proved a great disappointment, both to him and to ourselves; and we conclude this foreword with an expression of the admiration and regard, which our association with him in this task has engendered.

OWEN ROBERTS.
CHHOTU RAM.
ZAFRULLA KHAN.

REPORT OF THE PUNJAB REFORMS COMMITTEE.

INTRODUCTORY.

The Punjab Legislative Council adopted a resolution in the budget session of 1928 for constituting a committee of the Council for the purpose of collaborating with the Indian Statutory Commission during their visit to this province. This resolution registered the approval of the Punjab Legislative Council to the scheme outlined by Sir John Simon in his letter of the 6th February, 1928, addressed to His Excellency the Viceroy. It should, however, not be concluded that the acceptance of Sir John Simon's proposals as a basis for co-operation necessarily carried with it the approval of the Council to the composition of the Indian Statutory Commission. On the contrary, the speeches of the non-official members during the course of the discussion clearly indicated the disappointment of the elected representatives over the exclusion of Indians from the Commission.

2. The provincial committee, or the Punjab Reforms Committee as it is officially designated, was elected during the

summer session of the Legislative Council in May, 1928, and the following members were elected unopposed :—

(1) Mr. Owen Roberts (nominated)	Representing the European interests.
(2) Sardar Ujjal Singh (Sikh Urban)	Representing the Sikhs.
(3) Diwan Bahadur Raja Narendra Nath (Punjab Landholders general) ...	Representing the National Reform Party.
(4) Dr. Gokal Chand, Narang (North-West Towns, Non - Muhammadan Urban)	
(5) Rai Sahib Chaudhri Chhotu Ram (South East Rohtak, Non-Muhammadan Rural)	Representing the National Unionist Party.
(6) Chaudhri Zafrulla Khan (Sialkot, Muhammadan Rural)	
(7) Captain Sardar Sikander Hyat-Khan (Muhammadan Landholders) ...	

3. The Committee assembled for their first meeting on the 2nd June, 1928, and elected Captain Sardar Sikander Hyat Khan and Sardar Ujjal Singh, as Chairman and Honorary Secretary respectively. The Committee also passed the following important resolution and communicated it to the Chairman of the Indian Statutory Commission through the Government by cable :—

> " The members of the Committee are strongly of opinion that it will be difficult for them adequately and properly to discharge their duties and responsibilities if any distinction is sought to be made between the members of the Indian Statutory Commission and the members of the Committee, in the matter of the examination of witnesses or access to documentary evidence, and that conclusions based on the examination of a portion only of the evidence will not command public confidence."

The reason and force behind the demands contained in the above resolution could not but evoke a befitting and favourable response from Sir John Simon. The far-sighted and statesmanlike reply of the Chairman of the Indian Statutory Commission is embodied in the following message, which was received with general approbation and relief throughout the country except by the extreme wing who were committed, beyond retraction, to a boycott of the Commission :—

> " The resolution of Committee appointed by Punjab Council to co-operate with Indian Statutory Commission was

duly communicated to latter body and has been most carefully considered. It raises a question which also interests other Indian Committees that may be appointed under scheme of procedure proposed by Commission and I, therefore, think it well to communicate conclusion arrived at to you for publication. The Commission has decided to draw no distinction between its own members and members of these committees in respects referred to in resolution, so that in the matter of examination of witnesses and access to documents Commission will treat each Indian Committee within whose scope the material in question falls on equal terms with itself. It considers reservation made in Sir John Simon's letter to Viceroy of February 6th which in any event would have been put into effect very rarely, if at all, can be adequately secured by power which rests with Chairman to protect any witness and by his discretionary power to exclude press from joint sittings when necessary."

4. It is hardly necessary to mention that the acceptance of the Punjab Committee's demand by the Statutory Commission was to a large extent responsible for moulding the views of many political parties in the direction of co-operation, and for a change in the attitude of the various provincial legislatures which followed the lead given by the Punjab in setting up a provincial committee.

5. All the members of the Committee were present throughout the meetings of the Joint Conference during the visit to the Punjab of the Indian Statutory Commission and the Indian Central Committee. In addition, the Committee met for deliberations from time to time and in all held 21 meetings. The Committee as a whole also attended the informal conferences of the provincial committees at Delhi, and subsequently conferred with the Indian Statutory Commission before their departure for England.

6. The Committee were deprived of the benefit of the assistance during their deliberations of Diwan Bahadur Raja Narendra Nath, who, owing to his appointment on the Education Committee, was unavoidably absent from all except 7 meetings of the Committee. He was, however, present throughout the sittings of the Joint Conference and the informal conferences at Delhi, as well as the inaugural meeting of the Committee at which the aforementioned resolution was adopted.

EVIDENCE.

PUNJAB GOVERNMENT MEMORANDUM (DESCRIPTIVE MATTER).

7. We do not intend to survey the history of the Punjab, nor do we consider it necessary to trace the political and administrative phases through which the province has passed during the different periods previous to, or since its annexation by the

British, as by doing so we shall be merely recapitulating the information contained in the Government memorandum. The first part of the Punjab Government memorandum (Descriptive matter) is a comprehensive volume and contains all the information and data necessary to get a clear perspective of the province as a whole. This part of the Government memorandum bears the approval of His Excellency the Governor as well as the members of his Executive Council and the Ministers. It may, therefore, be accepted as a fair exposition of the prevailing conditions in the province in the social, economic, political and administrative fields. We venture to consider that except for minor details, on which there may be differences of opinion, this part of the memorandum, on the whole, will meet with general approval. The material collected in this volume has been of great value and assistance to us in our task and we have no hesitation in endorsing the collective opinion of the Government members. We wish to avail ourselves of this opportunity to state that the officials responsible for the preparation of this volume are entitled to a fully deserved tribute for the labour and care which they have devoted to its compilation.

8. Before we proceed further, it will be useful briefly to examine the character of the evidence—both oral and written—adduced before the Joint Conference. In addition to the bulky memoranda and detailed statements furnished by the Government of India and the Local Government, a large number of individuals and almost all the different political, communal, commercial, social, and even some religious organisations, throughout India, have placed their views before the Joint Conference, either in the form of memoranda or orally through their spokesmen. The views of important organisations and groups, and of prominent individuals, who have decided to keep aloof from the proceedings of the Joint Conference, have been made available in the shape of reports and proceedings of those bodies, and the public speeches of the prominent leaders of this political school. The main and the supplementary reports of the All-Parties Conference, the proceedings of the working and executive committees and councils, and the annual meetings of the Indian National Congress, the All-India Liberal Federation, the All-India Muslim League (Jinnah wing) and the Hindu Mahasabha, furnish the respective views and demands of these organisations. The Indian Statutory Commission, and the Central and Provincial Committees, have thus the advantage of being fully conversant with the views and aspirations of the different sections of the people of the country.

Non-official evidence in the Punjab.

9. It is, however, by no means an easy task to sift the relevant and really valuable matter from the great mass of, confused and confusing, material placed before the Commission and the Committees. Our own experience in this connection leads

us to sound a note of caution at this stage. Human nature being what it is, it is not surprising to find that most of the witnesses in putting forward the claims of the classes and creeds to which they respectively belong or profess allegiance, have made assertions and demands which are, to say the least, highly exaggerated and extravagant. In preferring their claims some of them have proceeded to the extent of making those claims look grotesque. It is unfortunate that in their efforts to establish superior claims for some particular class or community, they have allowed their zeal to outrun their discretion, by permitting important constitutional issues to become obscured by class or communal considerations. Faint and half-hearted attempts to veil these views under the cloak of nationalism were, however, only too transparent, and but for their obviousness might have contributed towards further confusing the real issues. This unfortunate and exaggerated and—to our mind—undignified exhibition of communal differences can be attributed to two main causes. First, the deplorable communal dissension, to which we shall advert later, could not but have its effect in moulding the views of public men, who have in most cases been forced into their present position by stress of circumstances; and the second—which we consider to be the chief and more immediate cause—is the not unnatural desire on the part of the various classes and communities to consolidate their position in anticipation of the next and more substantial instalment of reforms. This desire has been engendered by the advent of " reforms " and has grown with the knowledge and experience of the working of the legislatures during the past eight years. It is realised that in spite of its many limitations, the present constitution offers opportunities to the legislatures to exercise—both directly and indirectly—some control and influence, however small, over the executives. The likelihood of this control becoming complete and effective in the near future, has naturally stirred the various groups to greater vigour and zeal in the hope of securing advantageous terms for their respective interests.

10. Enthusiasm and zeal within reasonable bounds are justifiable, and even laudable, but advocacy which leads to an assertion of claims that can only be met by an encroachment upon the legitimate rights of others is more likely to defeat its own ends, besides doing incalculable harm to the greater aim of achieving self-government for India, with regard to which all classes and creeds are at one. We, therefore, hope and trust that the various parties in the country will see reason, and adjust their claims and differences, while there is yet time, instead of frittering away their energies in unbecoming bickerings and extravagant claims and counter-claims, with a view to securing advantages for particular interests by exploiting communal differences.

11. It is significant that matters which have no direct bearing on the constitutional issues involved in the inquiry upon

which the Commission is engaged have been prominently brought forward by some witnesses with the ostensible object of magnifying the grievances of one class or the other. The vehement criticism of the Punjab Land Alienation Act, the cry against the rapacity of the money-lending classes, and the paucity of the members of the rural classes in the public services, can be cited as instances which fall under this category. No one will deny the importance of or the strong differences of opinion which exist over these subjects, but it can hardly be asserted, with any show of reason, that these matters can legitimately be brought within the purview of an inquiry instituted to deal with matters relating to the future constitution of the Government of this country. The Punjab Land Alienation Act is a measure enacted, some 30 years ago, as the result of a desire to save the small agriculturists, particularly the yeoman class, from being deprived of their only source of livelihood. The privileges or disabilities under this Act are not confined to any one community or any particular area. The Sikhs, Hindus and Muslims throughout the province are alike affected by this measure. We do not consider it necessary, or indeed relevant, for the purpose of our present task, to enter into a discussion of the merits or demerits of the measure which has become the subject of acute controversy during recent years and will, no doubt, continue to evoke interest till such time as a radical change in the economic conditions of the province permits of its removal from the statute book. A measure which is considered as their " Magna Charta " by its supporters, and is depicted as an instrument of injustice and inequity by its opponents could hardly be expected to remain unexploited for purposes of political propaganda. It is, therefore, not surprising that it should find a prominent place in the election programmes of the various parties. But the insistence upon a provision in the future constitution of India for the repeal or retention of this or other similar measures, indicates a lack of appreciation of the practical difficulties involved in incorporating restrictions of this kind in the constitution; as once this principle is accepted it will be difficult to draw a line anywhere. Moreover, to enact laws for the benefit of the people is, above all, the main function of a popular legislature, and any restrictions or limitations imposed from without on the lines suggested, will be tantamount to a negation of the elementary principles of self-government. A moment's thought will convince the most ardent supporters of this contention that a suggestion which seeks to curtail the fundamental rights of the Legislatures cannot be reconciled with a demand for autonomy.

12. We fully appreciate that the nature of the non-official evidence and the mood in which it has been proffered does not by any means make the task of the Commission easier, as it will require a great deal of patience and labour to winnow the

grain from the chaff. It is here that the central and the provincial committees, with their knowledge of local conditions, can be of real assistance to their colleagues of the Statutory Commission.

13. It is gratifying to feel that there were at least some non-official witnesses in this province who rose above petty communal considerations, and gave expression to their views, frankly and boldly, undeterred and uninfluenced by any of the subterranean political currents. Noteworthy among these, is Mr. Harkishen Lal, an *ex*-Minister and a leading Indian industrialist and business man. His evidence was brief, to the point, and in sharp and refreshing contrast to the evidence of non-official witnesses who had preceded him. Apart from his position and experience which lend them additional weight, his views are entitled to close and careful consideration by reason of their moderation and freedom from bias, and as closely indicating the real aspirations of the Punjab.

Communal Dissensions.

14. There is a difference of opinion on this subject between the official and un-official members of the Punjab Government, and even among the un-official members themselves, as is evident from the separate note of the Honourable Minister for Education. The note* recorded by the Honourable Minister for Education has sought to steer a middle course between the views of his official, and those of his three un-official, colleagues and in doing so has brought into relief the main points of difference between the two points of view. The divergence, however, is not great and is confined to mere matters of detail and to the varying degree of importance attached to these matters by the official and un-official members. Our own views on the subject are contained in the following paragraph.

15. We agree with the view of the official members " that irresponsible second grade politicians and newspapers of inferior type "—for reasons of sordid personal gain—" were to a large extent responsible for accentuating and sustaining communal differences." We also agree that the reforms scheme quickened political consciousness and the desire for greater political power. To this we wish to add that in our opinion the sudden exhibition of proselytising zeal in recent years by some of the religious bodies, is actuated not so much by religious fervour as by a desire to show an increase in numbers at the next census for political purposes.

16. We consider that the present tension is in part due to economic reasons and will gradually disappear as conditions

* Volume II, Part V, paragraph 12, Punjab Government (unofficial) memorandum, page 59.

improve and the agricultural, industrial and commercial development of the province affords greater opportunities for the employment of the thousands of graduates, and tens of thousands of matriculates at present unable to find suitable work. We, however, fully endorse the view of the un-official members of the Punjab Government that there is no cause to be unduly pessimistic and that " communal dissensions are a passing phase " and are bound to disappear with the devolution of further powers and responsibilities which " will lead to a clearer realisation of the needs of the situation leading up to a just and fair adjustment of all communal claims, including those based on religious sentiments, and the gradual building up of a common culture "

17. In closing this subject we cannot do better than to quote a paragraph on the subject from a non-official memorandum* which, to our mind, clearly depicts the situation in somewhat different language :—

> " A very strong wave of communal tension has swept over the country during the last two or three years. This wave was the result of a re-action against the unity brought about in the palmy days of non-co-operation. That unity did not rest on very solid and reliable foundations. For three or four years common hatred of a third party had been preached violently from the Press and the platform and our unity was built on the foundation of this common hatred. Before the leaders of the people had had time to substitute a foundation of better material, *e.g.*, a clear perception of common citizenship and of common secular and political interests, the crash came and the pendulum swung violently to the other extreme. The communal tension, however, affected almost exclusively the urban section of the people, who, after all, constitute only 10 per cent. of the entire population. The communal virus did not spread to rural areas where mutual relations of Hindus and Muslims continued to be marked by toleration, good-will and even cordiality. Another encouraging feature was that the excesses were everywhere committed by ignorant and irresponsible individuals, the very scum of society. A further cause for gratification is that men of responsible position were not wanting who openly and strongly denounced the mad acts of their own co-religionists. The very nature and extent of the excesses, deplorable as they were, served to rouse the conscience of the people. In fact, the revulsion of feeling caused by these excesses is so genuine, so keen and so widespread that it may be said with confidence that the tide of communal bitterness has definitely turned."

18. It is interesting to note that almost identical views on the subject have been expressed in the " Minority Report " of the

* Punjab National Unionist's Memorandum, page 2.

" Reforms Enquiry Committee " which will be evident from the following extract :—*

> " We are fully aware that the unfortunate tension between the two principal communities, Hindu and Muhammadan, which has recently manifested itself in riots in some towns is held to be a serious warning against any precipitate or even early move towards responsible Government. We do not wish to overlook the argument or to under-estimate its force, but we wish to enter a caveat against the tendency to exaggerate the extent of these communal differences, which has been visible in a marked degree in certain quarters. Much as we deplore these dissensions and disturbances, we shall point out that in judging of them and their bearing upon the question of political advance, regard must be had to the size of the country and its enormous population, and also to the fact that the vast majority of the people live peaceful lives, and in rural areas the relations between the two communities are, generally speaking, friendly. It is mainly in towns that unfriendly relations sometimes lead to results which the saner section of each community deplores."

19. Before we leave this subject we wish to point out that the Punjab Government Memorandum mentions " Saidpur " (a village some five miles north-west of Rawalpindi) as one of the scenes of communal riots. This being the only village in the list, which otherwise comprises a few large towns only, its mention is likely to create an impression that the infection was not confined to large urban areas alone, but had extended to the rural population as well. Any such impression would be incorrect and unjustified, and it is to dispel any doubts which may arise as a result of this statement that we find it necessary to contradict this statement. The incident at Saidpur was nothing more or less than a dacoity committed by armed dacoits. The raiders came from the Hazara district in the North-West Frontier Province with the object of looting, as the village was reputed to be the abode of rich contractors and business-men. The Muslims of Saidpur gave refuge to their Hindu neighbours, fought the dacoits themselves and sustained many casualties. The incident, if anything, illustrates the cordial relations and amity prevailing between the two communities in the villages. To substantiate our view, we reproduce below two extracts relating to the incident published in the *Tribune* (a leading Hindu daily) and the *Muslim Outlook* :—

Extract from the Tribune *of the 20th June* 1926.

SAIDPUR OUTRAGE.

RAIDERS NUMBERED 250.

Simla, June 18.

" Later reports about the outrage at Saidpur show that the attack was made by some 250 men, part of whom are

* Pages 176-77.

believed to have come from Rawalpindi District, but the majority from Hazara in the North-West Frontier Province. They were well-armed, and the whole affair was over within two hours. Two Hindus were killed and five men wounded. Of the latter, one is a Muhammadan of Saidpur, who tried to protect a Hindu house. Families of Hindus took refuge with their Muhammadan neighbours in the village. Thirty-five village buildings have been destroyed by fire. Details are awaited of the action taken by the Frontier constabulary in search of the dacoits—A. P. I."

Extract from the Muslim Outlook.

* * *

"The casualties are two Hindus killed and four wounded and two Mussalmans wounded. A Mussalman notable of Saidpur, Raja Sadiq, was wounded while defending Hindu women and children. Similar noble examples may be cited in Rawalpindi. Raja Abdul Rahman, Pleader and Ali Haider Shah, Honorary Magistrate, protected Sikh and Hindu neighbours from mob violence."

* * *

20. Again the "Softa incident" mentioned in the Punjab Government Memorandum (see footnote) cannot be described as a communal riot since it was due to a clash between the police and the villagers.

21. In view of the above, we cannot but emphasise the fact that the rural areas are practically immune from contagion.

FRANCHISE.

22. The Joint Report enunciated the principle that the franchise should be as broad as possible subject to any limitations which may be necessary to avoid any breakdown of the electoral machinery through sheer weight of numbers. The Southborough Committee seem to have accepted this principle as a guide in formulating their proposals, but their eventual decisions were considerably influenced by the views expressed by the local Governments and Government witnesses. The great divergence between the standards fixed for the various provinces was mainly due to a desire on the part of the Committee to reconcile their recommendations with the views of the local Governments on the subject. It is mainly for this reason that the property qualification prescribed in the case of electors in the Punjab remained unduly high, despite the efforts of one of the members of the Committee, who was anxious to see a substantial reduction both in the rural and urban qualifications with a view to securing an increase in the number of voters more nearly approximating to that proposed for the neighbouring province of Agra and Oudh. The local Government "which was strongly

adverse to a lowering of the standard until further experience of the working of the franchise had been gained " in recommending a higher standard for this province completely ignored the wishes of the Punjab Council which had passed several resolutions on the subject of franchise and connected matters. (See Appendix to Punjab Proposals, Southborough Report.) It is significant that the same Government which had ignored the views of the Council, agreed to exclude the agricultural tenants from being enfranchised merely on the advice of the land-owning members of the Advisory Committee, which was composed of the non-official members of the Council.

23. Whatever may have been the reasons for depriving a large number of people in this province of the franchise, while the privilege was extended to their compeers in other provinces, the experience of the last three elections is sufficient to dispel any doubts or misgivings which may have been entertained at the time.

24. At the present moment there is a strong consensus of opinion in favour of male adult suffrage; and the number of the supporters of universal adult suffrage is by no means small. Even the more cautious and conservative among the present-day politicians feel that the vast bulk of the population will continue to remain unrepresented until the basis of the franchise is substantially widened. It is also conceded that universal adult suffrage must be kept as the ultimate ideal in view, if it is sought to give real and direct representation to the masses. We have, for obvious reasons, excluded from the above list the views of the petty sectarian politician who would like to see even the existing franchise further restricted for communal considerations alone.

25. It will be of interest in this connection to examine the views of a retired Indian Civilian on the subject which we quote below. He says*—

> " The first necessity is a very wide franchise for each Province. If the recommendations of the Ceylon Commission are accepted it will be difficult to avoid a similar almost universal suffrage in India. It would be a ridiculous anomaly if the Tamil cooly should have a vote in Ceylon, but not in his own home. This system should be introduced immediately, for the history of the native franchise in South Africa shows how difficult it is to correct injustices once the democratic machine has begun to function on a restricted electorate. The English owe something to the lower classes of India. Though we claim to be solicitous for the welfare of the out-castes and the small ryots, it is possible that the *Pax Britannica* has indirectly contributed to their unhappy lot. It certainly cannot be said to have done them

* G. T. Garratt (I.C.S., Retired), in " An Indian Commentary."

much good. The out-caste's vote will limit the power of the village ' headman ', who is too often the ' jackal of the Government ' ; it will weaken the caste system, and bring a little ' izzat ' or self-respect to many who badly need some moral support.''

26. While we are not prepared to go to the length of recommending the immediate introduction of universal adult suffrage, or even male adult suffrage, we are at one with those who are in favour of an early attainment of this ideal by stages. It will be futile to make a demand for the immediate introduction of universal adult suffrage at this stage, as we consider that it will not be possible to give effect to it without creating considerable confusion—both administrative and popular—due to a sudden influx of over 10,000,000 of additional voters in the province. The extent of this increase can be better realised when we compare it with the number of existing electors, who number only about seven lakhs. In view of the fact that even with the present limited number of voters some difficulty was felt during the last elections in finding officials and non-officials of sufficient status to officiate as polling and presiding officers, we consider that it will be almost, if not altogether, impossible for some time to arrange for satisfactory electoral machinery capable of dealing with a sudden increase of this magnitude. Subject to these limitations we are in favour of as broad a franchise as possible, which will bring all classes within its scope, including the rural tenant and urban labourer. We consider this necessary not only for reasons of equity and fair play, but also to save those classes and the country from the lures and dangers of communism, towards which there is already a perceptible movement. We are of the opinion that unless this vast multitude—consisting of agricultural tenants and labouring classes—is given an immediate interest, however indirect, in the administration of the country, there is every likelihood of its being exploited by " Red " agents, who will not fail to make capital out of its disabilities, by enlarging upon the shortcomings and iniquities of a constitution which seeks to exclude the working classes from the exercise of the franchise.

27. It may be argued that the extension of the franchise to these classes will alter the complexion of the Legislatures; and may in the near future result in the Legislatures being swamped by the nominees of these classes, and consequently affect the tone of the executive. This is possible, but it is not likely that this change will occur for a considerable time to come; and even if this forecast turns out to be true, it will merely lead to a change in the Government by constitutional means, which will certainly be preferable to a revolutionary change brought about by direct communist methods. We, therefore, consider that a substantial and immediate advance, beyond the existing limits of the franchise, is necessary in order to reduce the period

and stages leading to the common ideal of universal adult suffrage. We recommend the adoption of the following revised standard of qualifications to start with, under the new constitution; with power vested in the various Legislatures to extend the franchise at their discretion.

For the Council of State: Existing standard.

For the Assembly: Present qualifications specified for the Legislative Council.

For the Legislative Council—

(1) All persons paying Rs.5 land revenue and local rate;

(2) all agricultural tenants cultivating land paying Rs.10 in land revenue and local rates;

(3) all persons paying income tax;

(4) all persons owning immovable property of the value of Rs.2,000 or more;

(5) all persons paying Rs.72 per annum in house rent;

(6) all graduates and Fellows of the University;

(7) all village headmen and village officials, *i.e.*, lambardars, sufedposhes, inamdars and zaildars;

(8) all members of local bodies;

(9) all retired non-commissioned officers and men of His Majesty's army in India, Royal Indian Marine and Air Force.

If the above property qualifications are adopted and a gradual widening of the franchise is effected by reducing these property qualifications after each successive election, it should be possible to attain adult suffrage after three or four elections, that is within the next 15 or 20 years.

Nature of Constituencies.

28. At present all the constituencies in this province both for the Central Legislature and the Provincial Council are single member constituencies. We consider this arrangement to be satisfactory and do not recommend any change in the existing system in this respect.

Method of Election.

29. Election to the Provincial Legislatures by a direct vote as at present should continue. We, however, recommend for consideration the suggestion "that a certain proportion of the members of the Assembly should be returned by the Provincial Councils." This proposal, probably, emanates from a desire to secure the return of better representatives to the Assembly. The experience of the last three general elections indicates a tendency on the part of our best men to seek election to the local Legislatures in preference to the Assembly, even if the former involves a stiffer contest. It is claimed that members sent to the Assembly through the Provincial Legislative Councils will be more representative and better qualified, since they will have

to face originally a more popular electorate as compared with the members elected direct under a comparatively restricted franchise, and will have to satisfy subsequently a more intelligent and responsible, though restricted, electorate before they can be finally elected. There is a great deal to be said for this point of view, and we are inclined to think that the suggestion, if adopted, is likely to secure the election of comparatively better representatives from the provinces, and as a consequence will tend to improve the tone of the Legislative Assembly. An additional and a more important reason in support of this suggestion is that Provincial Legislatures will have the benefit of direct representation in the Assembly, which will be useful on occasions when matters affecting the Provincial Councils are under consideration in the popular Central Legislature. If the proposal is accepted, we would recommend that 20 per cent. of the members to the Assembly should be elected by the Provincial Councils.

Size and Extent of Constituencies.

30. The present constituencies for the Legislative Assembly, and some of the constituencies for the Provincial Council, are much too large to give the representative or his constituents even a remote chance of keeping in touch with each other. In these cases the relationship between the two is more imaginary than real. The remaining constituencies for the Provincial Council are generally confined to a single district and are, therefore, comparatively better proportioned. In these the member and his constituents can maintain, and generally do maintain, real touch. It is, however, by no means an easy matter for a member to traverse the whole of his constituency even once during his term. In some districts where distances are long, and means of communication difficult, it is physically impossible for him to do so. Although in the majority of cases it is possible for the representative to keep in touch with his constituency, the extent of the constituencies does not permit of their being "nursed" or properly canvassed. We are, therefore, of the opinion that the size of the constituencies should be appreciably reduced to allow the candidates and members to get in real and direct touch with the electors. This can only be done by enlarging the Provincial Legislatures and our proposals under this head will be found in a subsequent paragraph.

31. With regard to the classification of constituencies as rural and urban, we are of the opinion that the existing arrangement must continue. We further recommend that all towns with a population of 5,000 or more should be included in the urban constituencies. This is necessary for the purpose of preserving homogeneity of interests—as a small town is urban in its characteristics and outlook—and to avoid any undue advantage to the town areas with compact voters as against rural areas with electors distributed over a large and scattered area. A great

deal of importance is naturally attached to a just and proper distribution of seats between rural and urban populations. The present line of division which marks off the urban population from the rural is a town of 10,000 inhabitants or upwards. On this basis the proportion of the urban to the rural population is approximately as one to 10. We propose to fix the line of division at 5,000 or upwards. If this proposal is accepted the urban population will rise in proportion by 1 per cent.

32. The proportion of seats allotted to the urban and rural population by the Southborough Committee was as follows :—

Urban	...	...	...	10, that is, 18·5 per cent.
Rural	...	...	...	44, that is, 81·5 per cent.

33. The Parliamentary Joint Committee regarded the rural representation thus given as disproportionately low and recommended that it should be increased. The Punjab Government, in deference to this opinion of the Joint Committee, proposed an addition of four seats to the rural share. But as a result of subsequent changes suggested by the Government of India, the final distribution between the urban and rural population stood as follows :—

Urban	...	...	13 seats, that is, 20·3 per cent.
Rural	...	...	51 seats, that is, 79·7 per cent.

It is obvious that the disproportion pointed out by the Joint Committee was further accentuated instead of being mitigated by the final arrangement.

34. A glance at pages 20 and 21 of the Memorandum (Part I) prepared by the Punjab Government will further illustrate the serious grievance which the rural population in the province has in respect of the share allotted to it. On an average the urban population has one seat for every 128,646 persons and every 9,659 votes, while the rural population has one seat for every 372,796 persons and every 11,184 voters. The Non-Muhammadan rural population in whose case one seat falls to the share of an average of 478,334 persons, is the hardest hit in this matter,

35. It is true that even now the urban population is more vocal, better educated and better organised than the rural population. But the last 10 years have brought about a remarkable change in the way of educational advance and political consciousness in rural areas and the " placid, pathetic contentment " of the peasant proprietors in the Punjab has been very seriously disturbed since the inception of the reforms. Under the altered conditions of political outlook now prevailing in the countryside, considerations of both expediency and fair play demand that the disproportion noticed by the Parliamentary Joint Committee should now be rectified.

ELECTORATES—JOINT OR SEPARATE.

36. The vexed subject of electorates has evoked a great deal of controversy in the country and has been receiving close attention from the leaders of the various political groups. In the Punjab, if anything, it has, for some time, received even greater prominence than elsewhere. Strong exception is taken by a section of the population to the principle of separate electorates being extended to a community which—though backward educationally and economically—happens to be numerically in a majority in the province. Other reasons urged against this system are: that it creates and maintains a communal outlook and tends to check the cultivation of a national spirit; that it encourages the formation of parties in the Legislature on communal lines and hampers the growth of parties on political, economic or social bases; that it gives an opportunity to the bureaucracy to play one community against the other and to perpetuate the policy of "divide and rule"; that it tends to aggravate communal discord and thus retards national progress. Some of the more common arguments advanced by the other side in reply to those given above are that the interests of an economically and educationally backward community cannot be safeguarded unless it is allowed a free choice in the selection of its representatives; that if common electorates are introduced, the money-lenders and the financially stronger community will be able to influence the voters of the backward and poorer communities and get their own nominees elected, which will practically mean the backward communities being left unrepresented in the Legislatures; that the system does not stand in the way of parties being formed on political and economic bases as evidenced by the formation of parties during the last three Councils; that so long as the atmosphere remains charged with communal bias and mistrust it will be highly detrimental to the interests of the country, and the growth of nationalism, to introduce a system which is likely to create further dissensions; that the premature introduction of a system which depends on mutual good-will and confidence for its successful and equitable working, instead of bringing the communities closer, may result in a set-back which may take a considerable time to make up.

37. We think that both sides unnecessarily emphasise the merits and blemishes of the present system. Reasonable Muslims do not claim perfection for the system and at best regard it as a temporary expedient, a continuance of which is thought to be necessary only so long as the present unfortunate tension and attitude of mutual suspicion lasts. They apprehend that the introduction of common electorates, at this stage, instead of proving a panacea for the communal malady, may further accentuate communal discord, as in the present mood of the people elections cannot but be fought on communal lines. This view is shared by others than Muslims, including some prominent

Hindus, and is also endorsed by the official members of the Punjab Government.

38. While we are at one with those who look forward to an early change in the conditions which may make it possible, without any serious risk, to replace communal electorates by open electorates, we feel that it will not be in the interests of the province or the country to recommend an immediate change which may carry with it the grave risk of intensifying differences and widening the schism between the two major communities. We would prefer to attain the ideal by a process of mutual understanding, even at the risk of some delay rather than precipitate matters, by forcing a premature change in the teeth of opposition, which may lead to further complications and estrangement.

39. We visualise that with the advent of full responsibility, an equitable adjustment of the differences between and the claims of the various parties will only be a question of time, and it will not take long to bring about a real and lasting union between the different classes and communities. It would be far better to wait for an amicable settlement of the points at issue than to insist upon an arbitrary solution of these difficulties at a time when neither of the parties is in a mood to compromise.

40. At the same time we would appeal to the advocates as well as the detractors of the present system, to bear in mind that it is, after all, only a means to an end. The primary object is to secure a real and direct representation to the various classes and interests in the province. If it is sought to substitute common electorates in the place of communal electorates, it would be far more profitable if the various parties concentrated their energies on creating an atmosphere which would make this change possible, instead of wasting their time in trying to magnify the merits and disadvantages of the different systems, a pastime which can only result in putting off the consummation of this desire.

41. There is yet another difficulty in the way of an immediate introduction of common electorates. It is admitted by the advocates of the Nehru Report that adult suffrage is a condition precedent to the introduction of joint electorates. Since, for reasons already mentioned in a preceding paragraph, the immediate adoption of universal suffrage is impracticable, it necessarily follows that common electorates must be kept in abeyance till such time as universal suffrage can be introduced.

42. We therefore, recommend that for the present separate electorates must continue for the Muslims; and also for the Sikhs, if they so desire.

43. We understand that the Europeans and Anglo-Indians wish to be represented in the various Legislatures by election through separate electorates. We see no reason why they should be deprived of an opportunity of returning their representatives through their own electorates.

44. We would also extend this system to Indian Christians in case they desire to secure direct representation by election.

45. While we do not consider it either possible or desirable to fix any time limit after which the system of separate electorates must automatically disappear, we would suggest that a clause should be inserted in the revised constitution permitting any community to abandon separate electorates, if two-thirds of that particular community in the Legislature concerned vote for the abolition of separate representation, and this is confirmed in the next succeeding Council after a general election by a like majority of the members of that community.

46. We also think that it may be useful to give effect to the suggestion of the Honourable the Revenue Member* by throwing open all constituencies whether Muslim, Hindu, Sikh or others to the members of all the communities irrespective of their creed. This will be a step forward towards the goal of joint electorates.

Growth of Informed Opinion.

47. During the last nine years there has been a perceptible change among the masses; and an increasing interest is now being evinced by the people in public affairs. The elections of members of the Legislatures have roused amongst the electorates a degree of political consciousness, which has grown with each successive election. Electors are beginning to realise the advantages of selecting representatives who would safeguard and advance their interests in the Legislatures. The personal element, which was practically the sole factor in the selection of representatives at the time of the first election, is being superseded gradually by a desire to support candidates who are likely to place popular interests before any desire for personal gain. Interest in political matters is bound to increase rapidly with the broadening of the franchise and the devolution of further powers and responsibilities upon the Legislatures.

Nomination of Officials and non-Officials as Members of Elected Bodies.

48. The practice of nominating official members to the Provincial Legislative Councils, should cease as it hampers the growth of initiative and responsibility in the elected element of these bodies. A provision should, however, be made in the rules to enable the provincial Governments to nominate one or more officials, or experts, for specific purposes, when it is considered necessary to avail of their opinions or experience in any matter.

49. We are definitely of opinion that the nominated non-official element should be entirely eliminated from the Central and the Provincial Legislatures. If it is considered necessary to give

* Punjab Government Memorandum, Vol. II, Part V, page 55 (minutes by the unofficial members).

representation in the Legislatures to any particular class or interest, it should be secured by election and not by nomination.

Nominated Members in the Local Bodies.

50. In other bodies such as district boards, municipalities and small town committees, a limited number of officials and non-officials may be appointed by nomination. In the case of non-officials this method should be adopted only when it is found that an important section or interest will otherwise remain unrepresented. In no case, however, should the nominated non-official element exceed one-tenth of the total strength of the board or committee.

Suitability of Existing Areas.

(a) Local Self-Government.

51. We consider the existing arrangements under which districts and towns constitute the units for Local Self-Government in the case of district boards, municipalities and small town committees, respectively, to be convenient and satisfactory. The experiment of creating smaller units by establishing tahsil boards and committees has proved unsuccessful. We do not consider that a reversion to this system will serve any useful purpose as it would merely result in overlapping and duplication of work, and would cause endless friction between the district and tahsil organisations.

(b) Village Panchayats.

52. There is a great scope for the development of these village institutions. Village panchayats should be encouraged with a view to giving a direct interest to the people in the administration of local affairs. There are considerable advantages and possibilities in organising these units, which can be profitably used for the purpose of " uplift " work in rural areas, and in training people to take an intelligent and active part in the larger political issues, and in matters of social and economic interest. In addition to their other activities, panchayats will be useful in dealing with petty civil and criminal cases and to that extent relieve the civil and criminal courts of this work.

Zail Panchayats.

53. We further recommend that " zail " panchayats should be constituted to deal with inter-village disputes and matters of common interest. Besides adjusting differences, and co-ordinating activities of the village units the zail panchayats will be available for the purpose of conferring with other similar bodies and settling matters in which two or more zails are concerned.

Provincial Areas.

54. We are not in a position adequately to deal with this vast and complex subject upon the material before us. We, therefore, propose to confine our examination, and observations, to

schemes which affect our own province or relate to adjacent areas about which we can speak with some knowledge and confidence. Suggestions for redistribution of areas or adjustment of existing boundaries of provinces situated in remoter parts of India, with a view to securing homogeneity or administrative efficiency will, no doubt, receive full and careful consideration at the hands of the Statutory Commission and the Central Committee who are in possession of full information on the subject, and consequently are in a better position to deal with it. We are, however, of the opinion that except in the case of Sindh which has a strong case for immediate separation on geographical, linguistic, social and administrative grounds, any general redistribution should preferably wait till after the next constitutional advance, and in any case no re-adjustment of territories should take place without the consent of the people concerned.

CREATION OF A LARGER PROVINCE WITH DELHI AS NUCLEUS.

55. Amongst others a proposal has been made to constitute a larger province, by adding on to the present province of Delhi the whole of the Meerut division, and a portion of the Agra division from the United Provinces, and the Ambala Division from the Punjab. While there may be advantages from the administrative point of view in reducing the size of the United Provinces, and there may be some justification for constituting a more or less homogeneous Jat province, to our mind the proposal has no attraction for the Punjab, or the Ambala Division which it is sought to sever from the Punjab. In the first place, the diversity in the tenancy and other provincial and local laws, would present almost insurmountable difficulties, as it would be no easy matter to select and promulgate laws and enactments, which would be acceptable to all the various components of the new province. It is most unlikely that the tenants of the Meerut and Agra divisions would acquiesce in the introduction of the Punjab enactments, while the Hindu Jats of the Southern Punjab can hardly be expected to view with equanimity any desire, or move, to scrap their cherished laws and privileges.

56. There is yet another and a stronger objection to this scheme. The Ambala division comprises predominantly the Hindu districts, and if it is taken away from the Punjab, it will reduce the present strong Hindu minority* into a small minority, and thus upset the existing balance between the various communities. We consider that any large disparity between the communities in the present circumstances is undesirable in the interests of the province and good government. As the communities are at present balanced, there is not even a remote chance for any one community to form a cabinet on

* Hindus are 32 per cent. of the total population of the Province at present, but will be reduced to 17 per cent. if the Ambala division is excluded.

communal lines. By disturbing the existing equilibrium we should be placing temptations in the way of the community which would have a marked preponderance over others. Therefore any scheme that will lead to a situation which we desire to avoid cannot be expected to receive our blessing.

57. If, however, there is a strong and clearly expressed desire on the part of the majority of the population inhabiting the Agra, Meerut and Ambala divisions in favour of a separate province, the question will deserve serious consideration, for the territories comprised in these divisions have a strong claim for amalgamation on the grounds of linguistic, cultural and historical affinity.

58. Delhi, as the capital of India, should remain, as at present, a unit by itself unaffected by leanings and prejudices of other provincial units.

Separation and Extension of Reforms to Sindh.

59. We have already said that Sindh has a strong case for separation from Bombay. Apart from geographical, historic, economic, linguistic and administrative reasons which make their case unassailable the Sindhis, except for a very small minority, have demanded immediate separation. The vast majority behind the demand consists of Muslims and also includes Hindus and Parsis, and even the minority who have adopted an attitude of opposition only recently, were strongly in favour of separation not very many years ago. The separation of Sindh has been the subject of several resolutions passed by the Congress during the last nine or ten years, and Sindh finds a separate place in the scheme of provinces adopted by the Congress some eight years ago. It is significant that the decision of the Congress has never been challenged by the Sindhis themselves, and it is only during the last two or three years that a small minority, influenced by outside propaganda, have taken it into their heads to oppose the separation. In any case, we do not see any reason for thwarting the wishes of the great majority of the population merely because a small minority have recently taken up an attitude of opposition.

60. We are not unmindful of the objections to the scheme on financial grounds. We, however, do not consider this to be a serious obstacle. Sindh has considerable potential resources which will become tangible with the advent of the Sukkur Barrage irrigation scheme. If the province is not self-supporting at present, it will not be long before it is able to meet all legitimate financial demands for the purpose of administration and development. The province is expected to make rapid development in the agricultural and industrial spheres, while the well-known commercial enterprise of Sindhis should receive added stimulus as a result of improved economic conditions, brought about by the vast irrigation scheme which is under construction.

Sindh has the further advantage of possessing a seaport, with a magnificent harbour, which is capable of considerable development; and Karachi is likely to become an important seaport in the very near future. All these factors will make Sindh in course of time a prosperous province. Till such time as the new province is able to make both ends meet, any deficit in the provincial exchequer can be met by contributions from the Central Government. These contributions can be treated as loans, and should be funded and repaid by instalments when the financial resources of the new province are capable of liquidating this debt. Even if the Central Government is unwilling to make a direct contribution it should not be difficult to raise a loan—which will be a productive debt—for the purpose of development, on the credit of its vast potential income from the sale of land and other sources, when the great irrigation project is completed. In view of this we consider that any objections to the separation of Sindh on financial grounds will not be valid.

61. Moreover, it is not necessary that the provincial administration should be conducted on as costly a scale as in other provinces. By enforcing the strictest economy in administration, it may be possible to reduce the financial burden to a limit which the new province could well afford to shoulder after a few years.

62. It would not be out of place to give an extract here from the Nehru Report in which the objections raised on financial grounds are disposed of in the following words :—

> " A denial of the right to self-determination on purely financial grounds, and there are no other that we think valid, is bound to impede the progress of Sindh. All the energy that should go to building up the life and work of the province would be spent in profitless agitation. If, however, this right is granted, subject to the people of Sindh shouldering their own financial burden, a strong impetus will be given to the new province to work and compete with the more advanced provinces."

Extension of Reforms to Areas other than the Nine Provinces.

63. With regard to the extension of reforms to other than the nine provinces, we recommend—

(1) *Sindh.*—That Sindh should be immediately separated from Bombay and formed into a separate province, and should have the same privileges extended to it as are proposed to be extended to other major provinces;

(2) *Baluchistan.*—That a beginning should be made in Baluchistan with a view to bringing it up to the level of more advanced provinces within a reasonable period;

(3) *North-West Frontier Province.*—That the five settled districts of the North-West Frontier Province should be admitted to the benefits of the reforms on the lines of the Montford scheme immediately, and a provision should be made in the constitution for a further advance within a specified period in order to bring the North-West Frontier Province in line with the other major provinces within a reasonably short time.

64. We understand that the extension of reforms to the North-West Frontier Province is objected to by some officials on two main grounds. In the first place it is contended, as in the case of Sindh, that the existing revenues of the province are not equal to the expenditure; and that the province has to rely on contributions from the Government of India to meet the expenses of the present administration. It is argued that if it is not possible to meet the present expenditure from provincial revenues it would be still less possible to meet the increased cost of the reformed administration from the same source. That may be so, but we do not see any reason why the contributions from the Central Government should cease with the introduction of reforms. The North-West Frontier Province is the most important bulwark of the Indian Empire, and as such is entitled to ask for financial assistance from the rest of India for its upkeep. It stands in the position of a sentinel guarding the most vulnerable points in our vast land frontiers. A contented, strong and autonomous frontier province will contribute towards the stability and security of a self-governing India. Under these circumstances any contributions made by the Central Government will be fully justified and will constitute a proper charge on the Central revenues. While we strongly advocate the continuation of contributions from the Central Government, at the same time we believe that when the five settled districts are separated from the tribal territory, the revenue from these districts will be sufficient to meet the cost of the internal administration of the province. At present a considerable portion of the expenditure is incurred by the political department, for the purposes of supervision and control of the independent tribal territory. When the expenditure is split up and the province is relieved of this burden, it should not be difficult to balance the income and expenditure, and if necessary, to augment the income by further tapping of provincial resources

65. The other objection advanced against the introduction of reforms in the North-West Frontier Province is that the difficulties in the way of separating the tribal territory from the settled districts, and isolating the control and supervision of the independent area from the administration of the North-West Frontier Province, present formidable obstacles in the way of the introduction of any change on the lines indicated above. We, however, do not consider the problem to be difficult of solution.

These objections can be met by appointing the head of the Frontier Province as Agent to the Governor-General in respect of independent tribal territory. In his dual capacity he will be in a position conveniently to co-ordinate the supervision and control of tribal areas with his duties as head of the North-West Frontier Province. His responsibilities and duties with regard to the settled districts will be identical with those of the heads of other provinces, while as Agent to the Governor-General he will be directly responsible to the Governor-General as at present.

66. The only other alternative which will satisfy the aspirations of the Frontier people, is the adoption of the proposal to amalgamate the five settled districts with the Punjab. The Hindu minority is, however, equally opposed to this proposal, while, we consider that the scheme will be unacceptable to the Punjab Hindus also, since it will considerably reduce their present proportion in this province, without offering any compensating advantage to the Frontier Hindus. The disadvantages of disturbing the existing balance amongst the various communities of the Punjab have already been detailed by us in a previous paragraph and we, therefore, consider it desirable that the North-West Frontier Province should remain a separate unit, and the benefits of the reforms scheme should be extended to it on the lines suggested by us. We are of the opinion that the inauguration of reforms in the settled districts will have a healthy influence on the adjacent independent tribal areas and may, in course of time, lead to the solution of the vexed frontier problem. We feel that the neighbouring tribes cannot remain unaffected when they realise that their kith and kin in the settled districts possess substantial and effective powers of control and administration, with all the advantages of an autonomous and civilised government; and they may be inclined to seek for their own people and territories similar advantages which will ensure to them a peaceful and settled administration, without the loss of their cherished freedom.

PROVINCIAL GOVERNMENTS.

Size of the Provincial Legislatures.

67. The numerical strength of the Provincial Legislative Councils must be appreciably increased in order to make them more representative and popular. We have suggested in a previous paragraph that unless the size of the constituencies is considerably reduced, it will be futile to expect any real connection between the representative and his constituents. It is, therefore, necessary, that there should be a large increase in the number of representatives elected to the local Legislatures to enable the size of the constituencies to be reduced. Moreover, the present elected element in the Councils is totally inadequate and out of proportion to the vast population of the various provinces. Another consideration is that we have

advocated the introduction of the principle of full provincial autonomy; that is, that the executive should be wholly responsible to the Legislature. In order to secure efficient and popular control of the executive by the Legislature, the numerical strength of the Legislatures must be considerably increased to make these institutions truly representative. We, therefore, recommend that the number of representatives in the Legislative Councils, should be increased so as to secure the return of at least one member from every tahsil in the province.

68. In the case of the Punjab, we consider that 200 members will not be too many for the size and importance of this province. At any rate, we consider 165 members to be the irreducible minimum, if it is intended to give adequate representation to the various districts in the province.

Representations of various communities in the Punjab Legislative Council.

69. The next question is to consider the distribution of these 165 seats amongst the different communities and interests. This, however, is by no means an easy task, particularly in the case of this province where there happen to be three communities instead of two as elsewhere. We have, in the case of the Punjab, now to deal with three communities for the purposes of political controversies and adjustments, as the Sikhs, since the last thirty years or so claim to be a separate entity for political purposes, although they are closely connected with the Hindus by ties of blood and relationship, and a common social system.* It would be an easy matter to apportion these seats among the different communities on the basis of population. But we have to consider the question of allowing weightage to minorities according to the circumstances of each province, with a view to giving them adequate representation and affording them a greater sense of security. This principle is easy of application where the difference between a majority and a minority is so great as to leave the strength of the majority community unaffected in spite of any weightage that may be allowed to the minorities. But in the case of the Punjab where the Muslims are in a bare majority, the problem offers many difficulties. Nevertheless we should be willing to apply the same principle in the Punjab, provided that it does not have the effect of reducing the Muslim majority into a minority. We consider that any controversion of this principal would lead to endless trouble and difficulties in other parts of India, and would retard national development on democratic lines. It has been suggested in some quarters that no single community should be allowed to be in an absolute majority as against a combination of all the minority communities. Those who desire to reduce

* The Privy Council have held in the famous case of Sardar Dyal Singh's will that Sikhs are Hindus and are governed by the Hindu Law in matters of succession, etc.

the Muslim majorities in Bengal and the Punjab—as these are the only two provinces where the above doctrine is sought to be applied—do not see, or refuse to see beyond the limits of these provinces. If this principle were to be adopted, for instance, in the United Provinces or Madras, or for the matter of that, in any of the remaining provinces, the result would be ludicrous.

70. Subject to the limitations cited above, we are prepared to give weightage to the Sikh community to the fullest possible extent. Although we feel that the Sikhs have nothing to fear from the Muslims in view of the community of economic interests between the two communities—and this view of ours is shared by the Sikhs themselves—we consider that a few extra seats allotted to the Sikhs will give them an added sense of security. We, however, do not consider the claims of the Sikhs as put forward before the Joint Conference by the representatives of the Chief Khalsa Diwan, to be fair or justifiable. While the Sikhs themselves admit that they do not apprehend any opposition from the Muslims with whom their interests largely coincide, at the same time their representatives have put forward claims and proposals which can have no other result than that of reducing the Muslim majority into a minority. This is borne out by the evidence of the representatives of the Chief Khalsa Diwan before the Joint Free Conference, as also by the letter addressed to Pandit Moti Lal Nehru by Sardar Harnam Singh, Secretary of the Sikh League, which was published in the *Civil and Military Gazette* of the 14th February, 1929. In the course of this letter he says :

> " That the Muhammadans can apprehend no combination of Hindus and Sikhs against them in the Punjab is evident from the fact that the Sikhs have hitherto sided more often with the Muhammadans than the Hindus, especially as their interests as a rural and agricultural community have more often coincided with those of the Muhammadans."

In view of this expression of opinion, it would be equally true to say that the Sikhs have nothing to fear from the Muslims; and consequently, any demand which tends to reduce the Muslim majority into a minority is incompatible with these declarations.

71. We quote below an extract from a letter published by an influential Sikh gentleman—who claims to represent the views of the majority amongst the Sikhs—which *inter alia* describes the demands of the Sikh League as unfair and unjustifiable. He says—*

> " The position of those Sikhs, who demand the reservation of seats for their community, may sound reasonable but the

* Letter of Sardar Gurdial Singh, a member of the All-India Congress Committee, published in the *Civil and Military Gazette* of the 4th March, 1929

claims put forward by the Sikh League for the reservation of a share of representation far in excess of the numerical strength of the community, has no force and justification whatever, because the Nehru Committee has established population as a measure for the determination of the question of representation in the case of minorities. The demand of the League can be acceptable only if it is narrowed down to a point in accordance with the established principle. But so long as its opposition to the principle is there, the demand remains a dead letter."

72. We also wish to point out that the views expressed by the representatives of the Chief Khalsa Diwan have not been endorsed by the Shiromani Gurdwara Parbandhak Committee or the Akali Dal, two important organisations which command considerable influence amongst the Sikh community. The Nationalist Sikhs are also not in agreement with the demands put forward before the Joint Free Conference on behalf of the Sikhs. The three representatives of this section in the Punjab Legislative Council have only recently issued a statement which we reproduce below :—

(*Extract from the* Tribune *of the 24th March* 1929.)

Lahore, March 22.

" Sardars Hira Singh, Narli, Partap Singh and Hari Singh, three Sikh Nationalist members of the Punjab Legislative Council, have issued the following statement to the National Press :—

> Certain reactionary Sikh circles are making vigorous efforts to alienate the Sikhs from the national movement. A proposal is being prepared on behalf of the Sikh Leaguers in which 30 per cent. representation has been claimed by the Sikhs. A statement is about to be issued on this subject and signatures of the Sikh members of the Punjab Legislative Council are being obtained in support of this. We have refused to sign the statement when approached by certain Sikhs on behalf of the Sikh League. In addition to this the Sikh Leaguers are also asking us to leave the Nationalist party in a body. We have declined to do so as we have come to the Council on the Congress ticket and until the Congress directs us to do so we are unable to take any action in the matter. (*National Press.*)"

Representation of Special Interests through Special Constituencies.

73. Before we proceed to detail our suggestions with regard to the distribution of seats amongst the various communities in

the Legislature, it would be just as well to consider if the representation of special interests—such as industry, commerce, land-holders and the university—through special constituencies, is at all necessary. Our experience of the last three Councils clearly indicates that these interests can be adequately represented by members returned through the general constituencies, while the labouring classes would have remained unrepresented but for recourse had to nomination. We cannot see any justification for the continuance of a system by which the former classes secure representation to the Legislature through special electorates consisting of a handful of voters as compared with the general constituencies which contain in some cases over 20,000 electors. The effect of the present arrangement has been to inflate the size of the general constituencies by reducing their number, in order to provide for these miniature special constituencies. This appears to us to be an unnecessary encroachment upon popular premises. We would therefore recommend that these constituencies should be altogether abolished. If, in spite of these considerations, it is decided to retain all or any of these constituencies or to add to them, we would suggest that care should be taken to prevent the proportion of the various communities in the Legislature, as recommended by us, from being disturbed by the retention of the existing or the creation of new special constituencies. In other words, our recommendations with regard to the distribution of seats should apply to the eventual representation assured to each community as the result of elections in all constituencies, general and special, in case the latter are retained.

74. Since we are opposed to any representation in the Legislature through nomination, we would recommend that special constituencies should be formed to secure representation of labouring classes, in case it is decided to retain special constituencies for other interests.

75. We, therefore, recommend for acceptance one of the following alternative proposals for apportioning the seats in the Provincial Legislature amongst the various communities :—

(1) In case special constituencies are abolished—

Communities.	*Total.*
Europeans and Anglo-Indians	1
Indian Christians	2
Sikhs	28
Hindus	51
Muslims	83
Total ...	165

(2) In case special constituencies are retained—

(*a*) *Special Constituencies*—

	Total.
(1) Sikh land-holders	1
(2) Hindu land-holders	1
(3) Muslim land-holders	2
(4) Baloch Tumandars	1
(5) Punjab University	1
(6) Commerce	1
(7) Industries	1
(8) Labour	1

(*b*) *General Constituencies*—

Europeans and Anglo-Indians	1
Indian Christians	2
Sikhs	27
Hindus	47
Muslims	79
Total ...	165

76. It will be noticed that in both cases Muslims have been allotted just one seat more than the others. This has been done with a view to conforming to the principle enunciated by both the Congress and the Muslim League and accepted by us, that under no circumstances should a majority be reduced to a minority.*

77. In view of the overwhelming preponderance of electors of one community, and the experience of the past three elections, the University and the Industries constituencies have been treated as Hindu seats. The Commerce seat may go either to a European or to a Hindu. On the other hand, the Labour seat has been counted as a Muslim seat.

78. We should have liked to see one seat provided for retired Indian Officers of the Army, by creating a separate constituency in case special constituencies are retained. But the insuperable difficulties in the way of forming a suitable constituency, which will secure adequate and real representation to this class, make it almost impossible to devise a scheme which would give them direct representation. One or even two all-Punjab constituencies in their case would be of no use in achieving this object.

79. We also find that soldier electors are in an overwhelming majority in some districts and in consequence have

* One of us (Rai Sahib Chaudhri Chhotu Ram), is of opinion that in the matter of distribution of seats in the Punjab we should abide by the Lucknow Pact, viz., the number of seats in the Provincial Council should be divided equally between the Muslims and non-Muslims. With this end in view, the strength of the Council should be fixed at an even number. If, however, an odd number is decided upon, it will be more consistent with fairness to allot the extra seat to Muslims.

a considerable advantage over other voters. They are thus in a position to get their own nominees returned in those districts if they so desire. But for this fact and the difficulties in the way of forming suitable constituencies we should have recommended special representation for this class. We feel, however, that the legitimate claims of this deserving class will be adequately safeguarded so long as the retired and discharged soldiers retain the right of vote, and we have recommended that this privilege should be continued.

80. It will be seen that under the proposed division Sikhs get 28 seats out of 165, that is, 10 seats more than they are entitled to on the basis of population. This gives them a little less than 17 per cent. representation, that is, 6 per cent. in excess of their share, or in other words 66 per cent. extra seats as compared with their legitimate quota according to their numbers. It will be noticed that it is impossible to give them any further weightage except by encroaching very seriously upon the legitimate rights of other communities. As it is, we apprehend that the proposed arrangement may be considered by some as unduly stretching the principle of weightage, beyond reasonable limits. On the other hand, Muslims get 6 per cent less than their due share.

81. Our Muslim colleagues feel that there is a great deal of force behind the claim of the Punjab Muslims for an allotment of seats in the Provincial Legislative Council on the basis of population, *i.e.*, 55 per cent. seats to the Muslims. But in view of the principle enunciated above and also having regard to the situation in which the Muslims are placed in provinces other than the Punjab and Bengal, they agree that the Muslim representation in the Punjab Legislative Council under the existing circumstances may be fixed at a bare majority of one.

Official Block.

82. As already stated in a previous paragraph, we are strongly opposed to any seats being filled in the Provincial Legislatures by nomination. This objection applies equally to the appointment of official members. We have, however, suggested that provision should be made in the constitution for the appointment of officials and experts, as additional members for specific purposes and periods. We consider that the presence of the official element in the Legislature is detrimental to the growth of initiative and responsibility amongst the non-official members which is necessary to ensure a smooth and equitable working of the constitutional machinery.

83. A suggestion has been made that the official element should be retained, but that they should not have the right to vote. This proposal obviates the main objection against their appointment as members of the Legislature. We would not oppose this proposal, provided power is vested in the Legislature to eliminate the official element at their discretion, after a specified

period, of say, 10 years. We however, wish to make it clear that if the official members are retained, they should be additional members so as not to affect the composition of the Legislatures as recommended by us.

Life of the Legislatures.

84. We consider that the term of three years is inadequate, and recommend that the life of the Council under the revised constitution should be fixed at five years. While elections at shorter period were perhaps necessary in the beginning in order to train the electors, and create an interest amongst the masses in larger political issues, and in matters of public concern, we think that the time has come when the period between general elections must be extended. The electors have had sufficient schooling by this time, and an extension by two years in the life of the Legislature will not make any appreciable difference in this connection. On the other hand, the present short term does not give the representatives a fair chance of exerting themselves in the discharge of their duties to the full extent. The first year is spent in settling down and learning the procedure, while in the third year they have to again start canvassing for the next general election. Thus they are allowed only one year during which they can, if they are so inclined, work with peace of mind. Most important of all, continuity of policy is impossible under a three years' Council, and as it is expected that the new conditions of Government will give to the Councils a direct control over administrative and executive departments, it is essential that there should not be the frequent changes implied in a three-year period.

85. Further, the expenses of contesting an election make it impossible for a man with modest means to stand the financial strain involved in contesting elections in quick succession. Under the circumstances it is our considered opinion that the present period of three years should be extended to five years.

Second Chambers.

86. We wish to record our emphatic objection to the formation of second chambers in the Provinces. At any rate we are quite clear in our minds with regard to our own Province. The constitution of a second chamber in the Punjab would only result in a duplication of the popular Provincial Legislature. We do not see any advantage in constituting a second chamber which can hardly be expected to have a tone or complexion different from those of the more popular Legislature, when the representatives in both Houses are drawn from practically the same classes and represent identical interests. Any safeguards which may be necessary in order to place a check on any undesirable propensities on the part of the Legislature can be secured by investing the Governor with the power of veto, and incorporating such

other provisions in the constitution as would give him sufficient powers to deal with the situation in an emergency, or when the occasion demands his interference.

Provincial Executive.

87. We next come to the question of constituting the executive government in the provinces. We may mention at the outset that we are in favour of the fullest possible autonomy being granted to the Provinces compatible with the security and stability of the country as a whole. We will, however, advert to this question at some length in a subsequent paragraph as it is a matter of great importance, and involves a discussion of the merits and demerits of the federal as compared with the unitary system of Government.

Dyarchy.

88. We are emphatically of the opinion that dyarchy must be replaced immediately by a unitary form of Government in the province. The Punjab is perhaps the only province where dyarchy has been worked with uniform success during the last eight years. It should not, however, be concluded from this that the achievement is due to any merits inherent in the system itself. On the contrary it has been pointed out by both the official and non-official witnesses that the personal element, more than anything else, was mainly responsible for the successful working of this complex system in this province. The Punjab has been fortunate in having Governors and Ministers, during this period of transition, who were fully alive to the limitations and complexities of the present constitution, and decided to work it on the lines and in the spirit in which the authors desired it to be worked. If there was no conflict or deadlock it was due to a genuine desire for co-operation and mutual understanding on the part of the reserved and transferred sides of the Government, as also between the Government and the Legislature. There is, however, very little in the system which can be commended for its intrinsic value. All that can be said in its defence is that it was devised as a transitional expedient only, and as such it has served its purpose with varying degrees of success, or otherwise, according to the circumstances prevailing in each province. A system which depends on the personal idiosyncrasies of individuals for its successful working cannot be regarded as a suitable basis on which to construct a superstructure of democratic institutions; and the sooner it is replaced by a more rational and workable system, the better it will be for everyone concerned.

89. The Punjab deserves credit for working this complex system successfully, and has thereby proved its capacity for carrying on the administration successfully under circumstances where other provinces have partially or completely given way in

the face of difficulties and defects inherent in the present constitution. Dyarchy has, however, exhausted its usefulness, if any, and no one will regret to see the end of this cumbrous and confused system. The question of allocation of funds between the reserved and transferred departments, under this system, has been responsible for a great deal of friction between the two sides of the Government in the various provinces. The Punjab has very little to complain of even on this score, as the harmony amongst the Government members and the Ministers has never been in danger of being disturbed on this account. This happy atmosphere has to a large extent been due to the conciliatory attitude of the Legislative Council. Nevertheless, the system bristles with difficulties and offers abundant opportunities for deadlocks and confusion, and therefore deserves to be relegated to the archives of the Government Secretariat as a constitutional relic of the transitional period.

90. With the abolition of dyarchy, the only other form of executive government which is left is a unitary form of government. We, therefore, recommend that the future executive of this province, under the revised constitution, should consist of a Governor with a cabinet, consisting of not less than four and not more than seven Ministers including the Chief Minister, which would be responsible to the Legislature. The Chief Minister would be appointed by the Governor, and the other Ministers also by the Governor on the advice of the Chief Minister. This is essential if it is sought to secure the joint responsibility of the Ministers. So far as this province is concerned, we are quite clear and certain in our minds, that such a cabinet would be a representative one, as it will be practically impossible for any one community to form a cabinet consisting of members of that community alone. The suggestion that the Ministers should be selected from amongst the various communities irrespective of party considerations, if adopted, would cut at the very roots of the principles of responsible Government. It is inconceivable that a cabinet constituted on the lines suggested could survive even for a day. It is, however, more than probable that a "mixed cabinet" will be constituted voluntarily which will include members of all the communities belonging to one or more parties which agree to work together. The balance between the various communities is a sufficient safeguard against the possibility of any communal oligarchy being established in the province.

Official Members of the Cabinet.

91. We may mention here that we have given full and careful consideration to the suggestion contained in the official memorandum with regard to the appointment of one official member to the cabinet. We have tried to devise means whereby effect can be given to this proposal without affecting the responsibility of the popular cabinet. We must, however, confess that we have

found it absolutely impracticable to incorporate the suggestion of the official members of the Punjab Government in our recommendations, as we find that it would be impossible to do so without perpetuating some sort of dyarchy. The main arguments advanced in favour of this proposal are in our opinion not sufficiently strong or convincing to justify the retention of dualism, even in a modified form, in the future constitution of the provincial government. We consider that the heads of departments and the permanent official secretaries will adequately meet the needs of the situation, as Ministers can always take advantage of the advice and experience of these officials.

92. With regard to the second argument, it is inconceivable that any particular cabinet will not contain even one Minister who will be in a position to assist the Governor and to advise him, when required, with regard to those matters in which the Governor may not have any previous experience or knowledge. In the case of a civilian Governor such occasions will be few and far between. The authors of this proposal have themselves admitted the apparent anomaly in giving a place in the cabinet to an official member. They have tried to minimise the disadvantages by suggesting that he should not hold any definite or important portfolio. After giving careful consideration to the various aspects of this proposal, we have come to the conclusion that any little advantage that might accrue as a result of embodying this proposal in the constitution is far outweighed by the disadvantages which will result from the retention of dyarchy in any form under the revised constitution.

93. There is yet another and a stronger objection to this proposal, and that is, that the adoption of this system would draw the permanent officials into the vortex of politics, which is from every point of view undesirable. It is not difficult to visualise the delicacy of the position of the official member in the event of the cabinet going out of office as a result of a vote of the Legislature. In such a case the official member would be in a most awkward predicament, as he would have to vacate office with the other members of the cabinet and either revert to the post which he held prior to his appointment as a member of the cabinet, or else retire from the service. In the former case he will be carrying back with him his political views as also his leanings and sympathies for one or the other of the political parties and may find it difficult, if not impossible, to serve under a Ministry with views diametrically opposed to his own, and which may have been responsible for ousting him and his colleagues from office. In the latter case he may be sacrificing his interests by a premature retirement. There is one other possible alternative and that is, that he may be reappointed as a member of the new cabinet. Such a course can have but one result, that of sounding the death-knell of the very principle of responsible government and of joint responsibility amongst the members of the cabinet. At the same

time, it is difficult to conceive that the official member will be capable of changing his views and policy, like a chameleon, with each succeeding cabinet. In view of these difficulties and anomalies, we are not in a position to endorse the suggestion of the official members.

94. There is, however, a way out of the difficulty which in our opinion will meet the situation without violating the canons of democratic government or the principles of joint responsibility amongst the cabinet. We propose that the Chief Secretary, who is invariably a senior and experienced officer, should be the *ex-officio* secretary of the cabinet. This will enable him to place his advice and experience at the disposal of the cabinet when required, and at the same time to keep the Governor informed of the views and activities of the cabinet. The arrangement proposed by us, while securing the advantages outlined in the official scheme, eliminates its undesirable features, and obviates the necessity of retaining dyarchy in any form.

Joint responsibility of Ministers.

95. The Ministers will be directly and jointly responsible to the legislature and the cabinet will stand or fall together. The Governor will ask the member who commands the largest following among the members of the legislature to suggest the names of other Ministers belonging to his own or to some other party prepared to co-operate with his own. We wish to emphasise that unless the cabinet is formed on a popular basis and is amenable to the influence of the legislature, it cannot be correctly described as a democratic executive.

Party system.

96. The party system is a necessary ingredient of any representative government and consequently when the reformed Councils came into existence the outstanding personalities in the Council naturally started forming some sort of parties from amongst the members of the Council. It was not, however, till the second Council that this desire to form parties on the basis of common interests took concrete shape by the formation of the National Unionist party and the Nationalist group. The National Unionist party was the Ministerial party while the Nationalist party constituted the opposition. In the third Council, another party, the National Reform party came into existence. All the three parties profess to be non-communal. The National Unionists and the Nationalists include men of all faiths, while the National Reform party which at present consists of Hindus alone, has nevertheless a non-communal name, and from the way it has been denouncing communalism, it may be hoped that it will sooner or later shed its communalism and become really a political party, thus altering its present communal complexion. During the second Council for some time

there was no Muhammadan Minister in the cabinet, but the Hindu Minister belonged to the National Unionist party and depended on and received the support of his party. This is in itself sufficient proof, if one were needed, of the fact that a beginning has been made in the direction of forming parties on economic and political lines instead of on communal lines. The Nationalist group consists of members belonging to all the three communities, and men of rural as well as urban extraction, who profess common political views. We believe that with the devolution of further power and responsibilities, the tone and complexion of these parties will still further be altered, and the tendency to form parties on economic and political lines will be much more conspicuous.

97. We also feel that the presence of the official block with a solid phalanx of votes has to some extent been responsible for keeping the communal issue alive in the legislature. With the disappearance of the official block, the formation of a heterogeneous Ministry depending for its existence on the combined support of the official element and co-religionists of the respective Ministers will become impossible. While the future cabinets may, and in all probability will, contain members of all the three communities, these would, most probably, belong to the same party or to two or more groups prepared to work together. The failure to insist on joint responsibility amongst the Ministers, made it possible in the past for the Ministers to act independently of each other, and to rely on the official block and the members of their respective communities to keep them in office. The disappearance of dyarchy will make such tactics impossible; and, under the principle of joint responsibility amongst the Ministers any tendency which may still exist to form parties on the communal basis will soon disappear.

Powers of the Governor.

98. We visualise the Governor as the constitutional head of the Government in the provinces under the revised constitution. We, however, consider that it would be necessary for him to have a considerable reserve of power which he may be able to utilise in cases of emergency, and to check any violation of the provisions of the constitution. We believe that he will, if at all, require to use these reserve powers on extremely rare occasions; and in time these reserve powers will gradually fall into desuetude for want of occasions for their exercise. It may, however, be necessary to use some of these powers during the first few years, when the new legislatures and the popular cabinets are settling down to work. We agree with the official members of the Punjab Government that the Governor must have the power, in the last resort, of temporarily taking over the administration in case of a breakdown of the constitutional machinery.

99. In the Legislative field we have no objection to a change in the wording of section 72-E of the Government of India Act as suggested by the official members. They recommend that instead of the words " essential for the discharge of responsibility of the subject," the following words should be substituted : " essential for maintaining the safety, tranquillity and financial stability of the province." As regards all Bills, the existing powers of the Governor are, to refuse assent; to return for consideration; to reserve; and to stop proceedings, under the respective sections of the Government of India Act. We would leave all these powers with the Governor as at present. We would also leave with the Governor his existing powers in the financial field. We have no objection to the addition proposed in paragraph 37, part II, of the official memorandum of the Punjab Government, volume II. We would also leave to the Governor the power of veto in certain matters as at present.

100. Any powers of supervision or interference in cases of emergency that may be reserved for the Governor-General shall be exercised through the Governor, and to that extent the Governor will be the agent of the Governor-General. It must, however, be clearly understood that this does not imply any interference by the central legislatures, however constituted, with the provincial administration.

Provincial autonomy.

101. As already stated, we are in favour of full provincial autonomy being granted to the provinces. By this we mean the transference of all subjects to popular Ministers responsible to the legislatures. It is a matter for gratification that the official members of the Punjab Government after full and careful consideration of the various factors and arguments, for and against the proposal, have in the end come to a similar conclusion. We cannot but congratulate these members on their statesmanlike and far-sighted decision. We consider that the safeguards proposed by us will provide adequate protection against any unconstitutional tendencies on the part of the legislature or the Ministers. The powers of veto and interference vested in the Governor in the legislative and the financial fields, furnish further safeguards against any break-down of the constitutional or legislative machinery. On examination it will be found that those powers are so extensive and complete that they fully cover all the various spheres of administration in the province, and contain adequate provision for safeguarding the interests of the minorities if and when necessary.

Law and Order.

102. The transference of law and order has been opposed in certain quarters mainly on the ground that efficiency and discipline in the departments concerned would be prejudicially

affected as the result of their transfer to the control of a popular Minister. It is also emphasised that pressure from within the legislature as well as from without may, on occasions, be brought to bear upon the Minister in charge, and thus result in making this department a pawn in the game of politics. We are not at all convinced by this argument which we consider to be nothing more than a mere conjecture, and as indicating an unnecessarily pessimistic outlook. It is true that the police department has been made a target of adverse comment in the various legislatures. This is mainly due to the belief that the police is in reality only a strong arm of the present bureaucratic Government. So long as this department remains reserved, it is not unlikely that strong criticism will continue to be directed against the department. We are, however, fully confident that with the transference of the department to the control of a Minister responsible to the legislature, any unnecessary and uncalled-for hostility, to which it is at present subject, will cease. When the police becomes a transferred subject, it will no longer be regarded as a weapon in the hands of the bureaucracy to be used against politicians of advanced views, or for the purpose of subduing national and popular movements; on the contrary it will be looked upon as an agency for ensuring internal peace and security. It must be remembered that the department of police, although a reserved subject, has been under Indian members of the Executive Council in some of the provinces, and the highest authorities have admitted that this has not led to any lowering of efficiency or discipline. In our own province, while the legislature has often vehemently impeached the conduct and demeanour of the police, there is not a single instance where funds for this department have been withheld by the Legislature except in cases where minor cuts were sometimes effected for reasons of economy, not only in the police but also in other departments as well.

103. The Punjab Police Committee of 1926 recommended an additional recurring expenditure of no less than 20 lakhs of rupees with a view to improving the efficiency of the force. The Punjab Government, in view of the prevailing financial stringency, accepted proposals involving an expenditure of 16 lakhs only; and prepared a scheme with the object of giving effect to the recommendations of the Police Committee gradually. These proposals, which involved a considerable amount of expenditure, were accepted by the Council without demur. While the criticism of the police has been generally confined to a handful of politicians who subscribe to extreme political views, the Council on the whole has continuously shown a due sense of responsibility in supporting the Government whenever it became necessary to do so. A perusal of the debates in the Legislature during the past eight years, and of the recent discussion in the Council on the unfortunate incident at the Lahore railway station, on the occasion of the arrival of the Statutory Commission, will furnish

abundant proof—if further proof were needed—of the fact that the Council has always been prepared to take a sane view even when a subject which has excited considerable feeling amongst the public, has come up for discussion. In view of these facts, we consider that any opposition to the transfer of this department will be strongly resented by persons of all shades of opinion. If this subject is not transferred it would mean the continuation of dyarchy which would lead to a strong wave of resentment, and might create a situation which would make the administration of this department extremely difficult, if not altogether impossible, when it happens to be the solitary subject beyond the reach of popular control. We are afraid that any such decision would have the effect of counteracting any feeling of satisfaction and contentment that may be engendered as a result of further political advance in the country. We, therefore, strongly endorse and recommend the views of the official members of the Punjab Government regarding the transfer of all subjects in the province, without any reservation, to popular control under the revised constitution.

Relations between the central and provincial governments.

104. We are of opinion that the power of supervision and interference vested in the central government should be limited to the subjects in which the central government is directly interested, and to such other matters and occasions as the maintenance of the security and stability of the country as a whole may necessitate. Such control and supervision would ordinarily be exercised through the Governor. To give effect to these proposals it would be necessary to divide the central and provincial subjects carefully into two clear-cut compartments. This is comparatively an easy matter. Difficulties arise when we come to deal with the question of residuary powers.

105. This brings us to the question of the constitution of the future government of India and the position of the provincial government, *vis-a-vis* the central government.

Unitary government *versus* federal government.

106. One school of politicians advocates the establishment of a unitary form of government in which the central government will be supreme and the ultimate authority in all matters, with the provinces wholly subordinate to it, and forming separate units merely for the sake of administrative convenience. It is argued that a strong central government is the one form of government suited to the needs of the country, and that this can be achieved only by vesting in the central government all the necessary powers of supervision, control and delegation under the revised constitution. They propose that the provincial government and legislatures should exercise only such powers as are delegated to them by the central government. The other, and a

more numerous school, is in favour of absolute freedom being given to the provinces in all matters and subjects which are allocated to them under the constitution. They propose that the spheres of the central and provincial governments respectively should be defined in the constitution, a clear-cut division of subjects being made and all residuary powers vesting in the provinces, that is to say they contemplate full provincial autonomy for the provinces in all matters which are not reserved for the central government under the constitution.

107. While we agree that a stong central government is necessary in the interests of the country as a whole, we do not consider that this can be achieved by merely investing the central government with ultimate powers of interference in the internal administration of the provinces, save in exceptional cases where such interference is necessary to ensure the tranquillity and safety of the country and the maintenance of good government in the provinces. The size and the heterogeneous composition of the country present insurmountable difficulties in the way of constituting a unitary government on democratic lines for the whole of India. While supreme and undivided control over the whole country may be possible under an autocratic government, we do not consider it practicable under a democratic form of government. In our opinion the adoption of the proposal that the central government should be vested with unlimited powers of interference with and control over the provincial governments would mean merely the substitution of one oligarchy for another. Under a unitary form of government there is a possibility of undue interference in the purely internal matters of a province which may lead to unnecessary friction between the two, and cause resentment in the provinces. This would be unfortunate and may tend to weaken the central government instead of strengthening it as desired by the advocates of this system. The strength of the central government will lie in the co-operation and loyalty of the various provincial units which may be jeopardised by any untoward and hasty action on the part of a domineering central authority. Again, the enormous size of, and the existing conditions in, the country make it impossible to secure a truly representative central legislature by direct representation. Presuming that adult franchise is eventually introduced, an Assembly with even a thousand members apart from its unwieldiness, would have to be based on constituencies consisting of several hundred thousand electors each. It can hardly be expected that such an arrangement in the present state of the country would secure truly popular representation.

108. Again it is a primary principle of democratic government that all power of the legislatures and through them of the government emanates from the people. Under the proposed scheme for a unitary system of government, this procedure would be reversed, as in such a case power in the first instance

would be delegated by the British Parliament to the central legislature which would in turn pass on a portion of it to the provinces. Under this system the primary popular electorates would have no voice even in a matter of such vital importance as the alteration of the constitution, powers for which purpose are also sought to be vested in the central legislature. We do not consider this system to be a sound or safe method of securing responsible government to the country.

109. It is our considered opinion that the federal system will be the safest and the most appropriate form of government for this country. Under the federal system the provinces will have full and complete control over all subjects entrusted to them under the constitution, while subjects of all-India importance such as the army, foreign affairs, railways, posts and telegraphs and other matters of common concern will remain with the central government. Homogeneous and satisfied autonomous provinces will go a long way towards constituting a strong central government, which will derive its strength and authority not merely from the paper constitution, but from the voluntary and willing support forthcoming from the various units. We may profitably quote here again from Mr. Garrat's book. He says* :—

> "The problem of the central government would become simpler once its main function is understood to be that of agent for a number of autonomous provinces, and also of the Indian States. Ultimately the question of India's relationship with England will solve itself, for, as soon as the provinces are able to govern themselves they will be too strong for the Secretary of State. England's duty will be to provide the proper machinery for setting up a proper central legislature and administration on the basis of these provinces and States, and also to arrange for the maintenance of good government during the transition stage when the local governments are settling down to their work."

110. Another incontrovertible argument in support of the federal constitution is that it will leave the door open for the Indian States to enter the federation whenever they desire to do so, while by establishing a unitary form of government we should be raising a permanent barrier between these States and autonomous British India. We reproduce the following extracts from the presidential address of Sir M. Visweswarayya, delivered at the State Subjects' Conference held at Trivandrum on the 14th January, 1929, which will be of interest :—

> "A study of the history and example of the Dominion of Canada, the Commonwealth of Australia, the Commonwealth of Germany and the United States of America, will leave no doubt in our minds that a proper constitution

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* G. T Garrat (I.C.S., Retd.), "An Indian Commentary," page 274.

for India in its present circumstances is a federal government which should include in its fold both British provinces and the Indian States. The provinces and the States to be federated are so far akin that the duties of the central government on their behalf will be very nearly common; at the same time these two classes of territorial divisions have other dissimilar features which prevent their fusion into one single body politic constituting a unitary system like that of Great Britain."

111. We find that the official members of the Punjab Government hold views identical with our own on this subject as will be seen from the following extract from the official memorandum (Volume II, Part III, paragraph 2) :—

"We, however, repeat our suggestion arising out of item 47 of central subjects, that within the limits of powers vesting in authority in India by delegation or otherwise residuary powers not defined as vesting in the central government should vest in the Provincial and not in the central government. It is true that in practice these residual subjects have not given rise to any great difficulty, nevertheless, we think that an important point of principle is involved, namely, that *vis-a-vis* the central government provincial authority should be absolute except where expressly limited by statute."

CENTRAL GOVERNMENT CONSTITUTION.

112. We are in favour of full responsible government being granted to India on a federal basis. We fully appreciate the difficulties in the way of an immediate transfer of the portfolio of foreign affairs, the army, the Royal Indian Marine and the Air Force to popular control. In view of this we cannot escape from some sort of dyarchy in the Government of India till these departments are also handed over to popular Ministers. We would recommend that a specific period should be fixed in the constitution during which these latter departments will be handed over to popular control. During the transitional period we suggest that these departments should remain directly under the Viceroy and Governor-General of India, who will be represented in the Assembly by a Military member and a member for Foreign and Political affairs. We, however, consider it desirable that an increasing association of Indians in the administration of these departments should be arranged so as to give them the necessary training which will enable them to take over these departments at the termination of the period specified under statute. This can be achieved by appointing small boards or committees from amongst the members of the central legislature to work with the official members in charge of these departments. We consider that a maximum period of 20 years should be sufficient for the training and equipment of Indians in the administration of these departments.

113. It is, however, our considered opinion that any further advance towards the responsibility of the executive to the legislatures in the central government should follow and not precede or synchronise with the establishment of autonomy in the provinces.

Size of the Central Legislatures.

114. We are in favour of a bicameral central legislature. We recommend that the upper house should consist of two hundred members, half of whom should be elected by the various provincial legislatures and the other half by direct election. We consider it desirable that some arrangement should be made to secure the representation of all important interests in the country in this house.

115. The legislative assembly or the popular chamber, in our opinion, should consist of at least five hundred members, four-fifths of whom should be returned by direct election and one-fifth by the various provincial legislatures as suggested by us in a previous paragraph.

Term of the Central Legislatures.

116. The term of life of the upper chamber should be fixed at seven years, and that of the assembly at five years.

Position and Powers of the Governor-General.

117. The Governor-General shall be the constitutional head of the Government of India. He will have powers of veto and certification in certain emergent cases and matters. He will also have a right to dissolve the legislatures when necessary. He shall also form the link between the British Parliament and the Government of India, and any powers of supervision that are retained by the British Parliament shall be exercised through the Governor-General.

Executive Government.

118. The Executive Government should consist of from six to eight ministers, including the Minister for Defence and the Minister for Foreign and Political Affairs. The ministers will be appointed by the Governor-General from amongst the elected members of the legislatures excepting those in charge of the two last mentioned departments. The Minister for Defence and the Minister for Foreign and Political Affairs will also be appointed by the Governor-General and will be removable at his own will and discretion.

The ministers, with the exception of those in charge of defence and political and foreign affairs, will be responsible to the legislatures and will remain in office so long as they enjoy the confidence of the legislatures. It may be necessary to assist the various ministers by establishing small committees or boards

consisting of permanent officials and non-officials. We also recommend the appointment of "Parliamentary Secretaries" to the ministers who would relieve the ministers of formal routine work in the legislatures, and represent the ministers in the popular or the upper house as required.

119. The cabinet will form the link between the Governor-General and the legislatures. With regard to the subjects in charge of the popular ministers the legislatures shall have full control over them, while in the case of the two reserved departments, the existing arrangements will continue till these also are brought under popular control.

REPRESENTATION IN THE CENTRAL LEGISLATURES.

120. To avoid any undue advantage to the more populous provinces it would be necessary to adjust the representation in the central legislatures on a basis which would give equal opportunities of representation to all the various provinces whether big or small. One way of achieving this would be to allot an equal number of seats to each of the provinces. This practice is in vogue in some other countries despite the divergence in size and population between the various units. We, however, consider that a more equitable method will have to be devised to obtain a certain amount of uniformity in representation from the various parts of the country. In this connection we would commend the suggestion that India should be divided into five more or less equal units for this purpose, each unit returning one hundred members to the Assembly and forty members to the upper house. We are of the opinion that this arrangement will be more suitable and equitable and will secure more or less equal representation to the various units which would be approximately of the same size and contain an equal number of people. With a little care and labour it should be possible to constitute more or less homogeneous units for this purpose.

121. In accordance with the principle of allowing weightage to the minorities, we recommend that in both the houses of the central legislature at least one-third of the total number of seats should be reserved for the Muslims.

122. We are also of the opinion that one seat in the upper house and at least one seat in the popular assembly should be set apart for Europeans in the Punjab.

123. We further recommend that at least one member from each province should be elected to the Assembly to represent commercial interests.

STATUS AND POSITION OF INDIA IN THE BRITISH EMPIRE.

124. It is our considered and emphatic opinion that India should remain an integral part of the British Empire. This is not only necessary from the Imperial point of view, but is also

essential for the safety and the welfare of India itself. An autonomous India as an equal and independent partner in the British Empire will be far stronger, and will occupy a much more important place in the comity of nations than if it is entirely cut off from the British Empire. Its vast unprotected sea coast and thousands of miles of land frontiers make the defence of the country by no means an easy matter. Without its own navy, India would be in grave danger of aggression unless its shores were protected by a strong and powerful naval ally. .

125. Again, the present competition and the race for supremacy in the commercial and industrial world make such connection all the more vital for a country which is still in the elementary stages of agricultural, industrial and commercial development, and requires a more experienced and enterprising partner to bring it to the level of other nations in these most important spheres of national development. This does not necessarily involve a subordination of India's interests to those of Great Britain in these matters, as we contemplate a reciprocal arrangement between the two which will secure equal opportunities and advantages to both, without interfering with or hampering the industrial development of this country. A mutual agreement on these lines will safeguard the interests of both the countries against foreign competition. We are, therefore, most emphatically of the opinion that it would be in the interest of India to remain an integral part of the British Empire on equal terms with the other internally independent colonies and dominions.

Financial Relationship between the Central and Provincial Governments.

126. We feel that we are on delicate ground in dealing with this highly technical and complex subject. We, therefore, propose to confine our remarks to such general observations as, in our opinion, may be of some use in coming to a decision in regard to the difficult and important question of financial adjustment between the central and the provincial governments. It cannot be denied that the Punjab was very prejudicially affected as a result of the Meston Settlement. One factor which seems to have been responsible for an undue burden being imposed on this province was the existence of a large balance lying to the credit of this province with the Government of India at the time of the settlement. This balance was the result of treating proceeds of the sale of Crown lands as ordinary revenue, and was built up by starving beneficent departments and following a policy of rigid economy and retrenchment of expenditure. The amount thus saved was handed over to the Government of India during the Great War to assist them in meeting the abnormal expenditure during that anxious and trying period. For this patriotic effort the Punjab was saddled with a heavy burden in the shape of a contribution which was out of all proportion to the resources of the province. Another factor which weighed with the Meston Committee in assessing the

contributions was the amount of Income Tax paid by each province. They, however, seem to have ignored the fact that the amount of Income Tax realised in some of the more industrial provinces also included a share from the other provinces of Northern India. To make this clear we wish to point out that a portion of the capital of joint stock companies and other industrial concerns registered and carrying on business in the presidency towns is subscribed by the non-industrial provinces, such as the United Provinces, the Punjab, etc. Furthermore, all large industrial and commercial concerns and companies, particularly those carrying on operations and business in the Punjab, have their registered offices either in Bombay or Calcutta, since the management of these concerns is in the hands of firms which have their own businesses in these presidency towns. This means that the profits of these companies while earned in the Punjab are taxed in Bombay and Calcutta as the dividends are declared and paid at those places. Thus, it would be seen that as the result of both these arrangements Income Tax which should ordinarily have been paid in this province is paid to the credit of other provinces.

127. It has been pointed out by the financial experts of this province that there is very little elasticity in the resources of this province. With the completion of the Sutlej Valley Project further development in the province will be at a standstill which means that after about another five years there will be no further scope for expansion in the revenues of the province unless we are able to find fresh sources of income.

128. This brings us to the question of the present taxable capacity of the province. It is evident that there is no further scope for adding to the land revenue, in view of the fact that practically all productive irrigation schemes have now been either completed or are under construction, and in the old colonies development of agricultural areas has reached a stage which does not allow of any further advance in this direction. The only other source which can bring in any appreciable amount to the provincial coffers by direct taxation is the revenue from tax on incomes, which is reserved as a central subject. We would, however, suggest that the provinces should be allowed to impose a surcharge on the lines of *centimes additionelles* and thus enable them, when necessary, to tap this source of revenue within certain limits. With a view to guarding against any danger of an inequitable assessment in this connection we propose that a limit should be fixed beyond which the provinces should not be allowed to tax incomes. We suggest that this limit should be fixed at a figure not exceeding 30 per cent. of the existing Income Tax rates.

129. With regard to the present division of resources between the central and the provincial governments, we consider that there is very little scope or necessity for altering the existing arrangements. We would, however, lay stress on the necessity of making it clear that there should be no reversion to

the system of contributions which, in the case of some provinces, pressed heavily on them as a result of the Meston Settlement. The central government should, however, always have the power of levying special contributions from the provinces during emergencies, or times of urgency such as war or similar other unforeseen exigencies. We recommend that contributions on such occasions should be based on the "*per capita*" system. This would not only result in an equitable distribution of the burden over the various provinces, but would be an easy method of calculating assessment. As already mentioned we do not wish to enter into minor details. A technical and complex subject like this requires considerable time and data to enable us to work out a complete and cut and dried scheme. We, however, recommend the proposals made in this part of our note for consideration and acceptance.

130. Another matter raised during the deliberations of the Joint Free Conference was the question of conceding to the provinces the right of raising loans on their own responsibility and credit without interference from the central government. While we consider it necessary that the central government should be invariably consulted in all cases where the provinces desire to raise loans, the former should not ordinarily stand in the way of the provinces making their own arrangements if it is to their advantage to do so. A convention should, however, be established which would allow the various provinces to meet together under the aegis of the Government of India to discuss questions of provincial credit, and the requirements of the various provinces from time to time in the way of loans, which they desire to float in this country, or elsewhere. We feel that the varying credit of the different provinces may adversely affect the position of provinces with a better and more stable financial credit if loans were always to be raised through the Government of India. Moreover, freedom of action in the matter of borrowing would encourage the provinces to consolidate and strengthen their financial position and resources. We are, however, of opinion that in case of external transactions and loans raised outside the country, the Government of India's sanction should be necessary in order to avoid international complications, and any risk to the stability of currency, and the financial credit of the country as a whole.

Separation of Judicial and Executive Services.

131. This question was gone into by the Joint Free Conference during one of its earliest sittings at Lahore and was subsequently thrashed out in detail before a Sub-Committee consisting of—

The Chairman of the Statutory Commission;
Sir Hari Singh Gour;
Dr. Suhrawardy;
Dr. Gokal Chand, Narang;
Chaudhri Zafrulla Khan.

132. Mr. Miles Irving was also present at the meeting of the Sub-Committee for the purpose of explaining matters on behalf of the provincial government. At the end of the discussion the Chairman dictated a note summarising the points brought out during the discussion. We would draw attention to the contents of this note* as well as the documents mentioned in the beginning of that note as illustrating the questions and difficulties that arise for solution in this connection.

133. This matter has on several occasions, during recent years, been agitated in the Legislative Council of this province as well as in the Legislative Councils of other provinces, and on each occasion the representatives of the people have emphatically demanded the liberation of the purely judicial machinery from the control and supervision of the executive. It is not necessary at this late stage to examine the argument in favour or against this step. The Punjab Government admitted the desirability of the change and the change has been delayed in this province owing mainly to financial considerations, although no doubt certain difficulties of an administrative nature have also operated in favour of the continuance of the present system. We are of opinion not only that the time has arrived when the change should be made without any misgiving or apprehension, but also that if the change is not immediately introduced, the Provincial Government may be faced with certain difficulties in the local legislature, where the extreme wing is always certain of support from the more moderate wings when this issue is raised for discussion. We do not think that any very radical measures are required to meet the popular demand. The powers at present possessed by the District Magistrate which are of a purely preventive nature need not be modified or restricted in any respect. All that is necessary is that the allotment of all judicial work should be transferred to the Sessions Judge, who alone should hear appeals and entertain petitions of revision from orders of the subordinate magistracy of all classes and who alone should report upon the work of the subordinate magistrates and should make recommendations concerning their powers, promotions, increments, transfers, etc., and the whole of this system should be under the direct supervision of the High Court. During any period of excitement when a breach of the peace is apprehended, the District Magistrate should have the same powers of requisitioning the services of the various magistrates in his district as the Commissioner of Police possesses in the Presidency towns. We are not aware that in the Presidency towns any difficulty has ever been felt with regard to the preventive functions of the magistracy on the score that the Presidency Magistrates are directly subordinate to the High Court and not to the Commissioner of Police, who is the nearest counterpart of the District Magistrate in the Presidency towns.

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* E-400 (Pun)/J. S.

SERVICES.

134. The question of the position which the services are to occupy under the revised constitution has assumed an importance which is hardly justifiable. While no reasonable person will deny the permanent services a due measure of protection against the rather unsettling influence of party politics, at the same time it must be remembered that any undue nervousness or apprehension will not only be uncalled for, but cannot be allowed to clog the wheel of progress.

Recruitment. (*a*) Judges of the High Court.

135. All judges of the High Court, whether permanent, additional or acting, should be appointed by the Crown on the recommendation of the local government. No judges of the High Court should be removable except by the Crown, on the joint recommendation of the Governor and the local legislature concerned.

(*b*) All-India Services.

136. Recruitment to the Indian Civil Service and the Indian Police Service should continue to be made by the Secretary of State as at present. Recruitment to the other all-India services which are directly under the control of the central government should be made by the Central Public Services Commission. In the case of those services we should like to recommend that the quota for each province should be fixed either by rules, or convention, so as to secure adequate representation of the various provinces in these services.

(*c*) Provincial Services.

137. All services which are directly under the provincial governments should come under this category; and recruitment, both to the superior and the junior branches of these services, as well as the provincial civil and police services, should be in the hands of the Provincial Public Services Commission. While all first appointments should rest with the Public Services Commission, the right to lay down the principle and policy in regard to securing due representation of the various classes in the public services of the province should continue to vest in the local government. Similarly, all promotions in the various services should remain entirely within the discretion of the local government in accordance with the rules framed by them for the purpose.

138. Recruitment to subordinate services will be made by the heads of departments, in accordance with the rules framed by the local government concerned.

Control.

139. All powers of discipline and control will vest in the heads of departments and will be exercised in accordance with

the rules framed by the local government from time to time. In the case of the Indian Civil Service and the Indian Police Service, the members of these services should be removable only by the Secretary of State; and should have a right of two successive appeals to the Public Services Commission and the Secretary of State in respect of such punishments, short of dismissal, which may be inflicted by the heads of departments or the local government, in accordance with rules framed by the Secretary of State.

140. Members of the junior branches of the civil and police services, and all members of other provincial services should have a right of appeal to the Public Services Commission in case of dismissal. All other cases of punishment or disciplinary action affecting the members of these services will be governed by rules framed by the local government.

Public Services Commission.

141. The members of both the Central and the Provincial Public Services Commission should be appointed by the Secretary of State and should hold office during his pleasure.

Representation of Commerce in the Central Legislature.

142. During the progress of the informal conference between the Provincial Committees two points brought forward by this Committee met with the general approval of the Conference as a whole, and indeed one of these points was carried as a resolution and would have been presented as such, had it not been decided that the Conference should not, as a body, make any recommendations in the form of resolutions as a result of their deliberations.

143. The first of these points was the recognition by the Conference of the need for improved representation for commerce in the central legislature and it was decided to ask for at least one representative for commerce from each province in the popular house of the central legislature. It is recognised that commerce must remain a central subject, as it is essential that legislation affecting commercial interests must ordinarily be uniform in character throughout the country. Apart from this, there are other matters closely connected with commerce which have to be dealt with in the legislature, such as exchanges, banking and other subjects vital to commercial interests. Again, there are many forms of taxation affecting commerce which will come up before the central legislature, and it is only right that in the discussion of these important matters each province should have at least one member, directly representing the commerce of the province, to present the special point of view of his own province. We have already incorporated this suggestion in our recommendations.

ASSOCIATION OF PROVINCES IN THE CONTROL OF LOCAL RAILWAY ADMINISTRATION.

144. The second point relates to the railway administration. Whilst it is admitted that this should continue to be a central subject, yet the functioning of railways is so intimately bound up with the development and welfare of the provinces that it is necessary to devise some means whereby the provincial government and legislatures can be associated with the management of railways in each province. One method of achieving this would be to create small boards or committees in each province consisting of one Government official and one or two non-official members of the local legislature, which will be associated with the administration of the railways concerned in each of the provinces. The subject is too complex to allow of its being dealt with in a manner compatible with its importance in a brief paragraph, as it requires considerable data, and careful consideration, before any definite and detailed proposals can be formulated or recommended. We, however, consider it not only desirable but necessary that the principle of associating local administrations with the administration of the railways should be adopted. It is on the face of it incongruous that a railway should pass through a province deriving its revenue from its people and enjoying all the advantages of the connection without any degree of control or supervision from the province. Suitable matters for the consideration of the boards suggested above would be such subjects as railway freights and rates, the employment of capital expenditure, lay out and direction of new lines, relative importance of sanctioned schemes of expenditure, the right to inquire into the arrangements for the supply and distribution of rolling stock, and the relations and bearing of the railway establishment towards the public. The above list is not meant to be exhaustive, but comprises only a few suggestions which can no doubt be augmented. We consider that a special committee should be appointed to go into this matter thoroughly and make recommendations which would link the railway administration in each province to the local administration of that province, while safeguarding the essential control by the central government.

SAFEGUARDS FOR FUNDAMENTAL RIGHTS OF MINORITIES.

145. With the recognition of the principle that the goal of constitutional advance in India is the realisation of full responsible self-government, an apprehension has naturally arisen in the minds of members of the minority communities that when the controlling and supervising powers of a neutral and impartial third party are withdrawn, the majorities in local bodies, provincial legislatures and central legislatures may proceed to exercise their powers in such a manner that their action, although strictly constitutional and within the prescribed limits of their powers, may yet amount to an infringement of the fundamental

rights of minority communities. This, to our minds, is a matter of as great, if not of greater, importance as the bigger constitutional questions relating to the form of government to be established for the whole of India and for the provinces, and the question of representation in the legislatures, etc. In some quarters a demand has been put forward for the inclusion in the new constitution of some clause which would prevent a majority in any of the bodies above enumerated from using their strength for the enactment of any measure that is likely to amount to a trespass upon the legitimate rights of a minority relating to their culture, religion, language, personal laws, endowments, foodstuffs, etc. We would suggest that it should be made *ultra vires* for any legislature, central or provincial, to pass any enactment affecting any of these matters without the assent of two-thirds of the members representing the community to be affected by such a measure. With regard to local bodies, we would suggest that the whole law regulating and relating to the machinery of self-government in rural and urban areas should be re-examined in the light of the change which is likely to take place in the composition of the controlling and supervising authority, that is to say, a change which will substitute for a bureaucracy uninfluenced by any party considerations a system of government which will be dominated by such considerations and will be responsible to a legislature run on party lines. In the case of these bodies also, we would suggest that the enactments governing all these bodies should contain a clause similar to the one that we have suggested in the case of legislatures.

Education.

146. We have not, in the course of this report, touched upon the vital problem of education, as neither a copy of the report of the Education Committee nor even an abstract of it has so far been made available to us. We reserve to ourselves the right of making any submissions that may arise from the report of the Education Committee at a later stage.

147. Any other matters that may emerge for consideration as a result of the joint deliberations of the Provincial Committees and of the concluding sessions of the Joint Free Conference would also, in case necessity arises, be dealt with later in a supplementary report.

CONCLUSION.

148. It will be noticed that except in cases where it has been absolutely necessary for the purpose of making our point of view clear, we have throughout this report refrained from entering into details and have confined our suggestions and remarks to the broader principles and questions bearing on specific constitutional issues. It will also be observed that we have not traversed the whole field covered by the exhaustive questionnaire issued by the Statutory Commission. This omission has been due

either to the lack of sufficient data and material, in the absence of which we could not formulate any definite proposals, or else to the nature of the subject which in our opinion did not fall within the immediate purview of the Provincial Committee.

Distinctive Features of the Punjab.

149. Before we conclude, we wish to draw the particular attention of the Indian Statutory Commission to certain distinctive and characteristic features of the Punjab which distinguish it from the rest of India. The Punjab is pre-eminently a land of peasant proprietors, almost all of whom belong to martial races. Situated as it is, the province has had to face successive invasions from the North-West, and has been the camping ground of both the invading and the defending armies. This and its close vicinity to the frontier and the tribal territory has of necessity made the people of this province sturdy and martial. It is, therefore, not surprising that the Punjab should have been selected as the main recruiting ground for the Indian Army. It is due to this fact that two-thirds of the existing Indian Army consists of Punjabees; and the pages of history bear testimony to the gallantry and devotion of the Punjabees from the time of the Mutiny onwards. In more recent times, during the Great War, the Punjab has not only helped to secure victory for the Empire and its allies, but also won the Reforms for India. Again, the Punjab is a markedly liberal province in its outlook, and the contrast of social and economic status between the different sections of the people is not so sharp as in some of the other provinces, and consequently there is no danger of political power being made a close preserve in the hands of a small oligarchy. Further, the Punjab has been conspicuously successful in working the present Reforms in a spirit of good will and co-operation, an achievement which in itself is a sufficient proof of its capacity to manage its own affairs, and makes its demand for the grant of full responsible Government irresistible. It will not be out of place to state the views of Sir Malcolm Hailey on this subject, views which were expressed by him after his appointment as the Governor of the United Provinces, in a message to the Punjab Legislative Council. The relevant portion of that message is as follows:—

> "I deeply regret that circumstances have prevented me from meeting the members of the Punjab Legislative Council before my departure . . . . My regret does not merely lie in the fact that I have not had the opportunity of reviewing with them the events of years which will, I am convinced, be acknowledged to have been of great importance in the history of the Punjab, nor even in the fact that I have been unable to pay a final tribute to the spirit of co-operation and responsibility which has been shown by the Council in dealing with the problems of political and material development during this period."

150. A similar acknowledgment has been recorded by the official members of the Punjab Government in that part* of their memorandum which contains proposals for the extension of responsible Government in the Province :—

> " The Council has always co-operated with the executive in so far that it has sought to take full advantage of the opportunities offered by the constitution, and has never attempted to bring the administration to a standstill. The administration owes much to its support in all measures tending to social and educational improvements . . . . That support has not been confined entirely to subjects classified as ' Transferred ' for there have been occasions on which it has also been given to subjects connected with security, law and order. At a critical period and at some risk of unpopularity it showed itself ready to support Government in the taxation necessary to re-establish the finances of the Province."

151. There can be no clearer and stronger testimony in support of the claim that the Punjab is pre-eminently fitted for the conferment of full political responsibility in the provincial sphere. In view of this, it is our considered opinion that the Punjab will not be satisfied with anything which may fall short of complete provincial autonomy in the administrative, executive and financial fields as recommended by us in this report. We may point out that our recommendations are not based on mere sentiment, but have been formulated after a full, careful and anxious consideration of various factors, including the existing conditions of the province. While our views may be characterised as re-actionary by the extreme school of politicians, and our recommendations may be regarded as falling short even of the aspirations of the moderate school, we, in formulating our proposals have throughout been influenced by practical considerations, and our recommendations may, therefore, be taken to embody the irreducible minimum which would be acceptable to the more moderate elements in the province. In this connection we wish to emphasise that any attempt to make an invidious distinction between the Punjab and the other major provinces will not only be unfair and unjust, but will also be keenly resented by the people.

152. Our colleagues, Diwan Bahadur Raja Narendranath, Dr. Gokul Chand, Narang, and Sardar Ujjal Singh have decided to write a separate note, or notes, which would be attached to the final report prepared by the majority.

153. A summary of our recommendations is attached as an annexure to this report.

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* Punjab Government Memorandum, volume II. page 5.

154. We are deeply indebted to our colleague Sardar Ujjal Singh, M.A., M.L.C., who has been acting as the Honorary Secretary of the Committee and has been supervising the routine work, at considerable inconvenience to himself.

155. We also wish to record our appreciation of the work of Mr. P. S. R. Ayyar and his assistants for the efficient and diligent manner in which they have discharged their duties in a somewhat unfamiliar field of work. Mr. Ayyar has been of considerable assistance to us in preparing and tabulating the information which has from time to time been called for by the Committee and by individual members. His assistance has rendered the task of the Committee very much easier than it would otherwise have been.

SIKANDER HYAT-KHAN, *Chairman.*
CHHOTU RAM,
OWEN ROBERTS,
ZAFRULLA KHAN.

Summary of Recommendations.

This summary has been prepared for facility of reference and should be read with the paragraphs of the report in which the recommendations have been made.

FRANCHISE.

1. Franchise qualifications should be considerably lowered with a view to the attainment of universal adult suffrage by stages within a reasonably short period—paragraph 27, page 402.

NATURE OF CONSTITUENCIES.

2. Constituencies for provincial and central legislatures should remain single member constituencies as at present—paragraph 28, page 403.

METHOD OF ELECTION.

3. Elections to the provincial legislatures should be by direct vote as at present—paragraph 29, page 403.

4. The suggestion that a certain proportion of the members of the central legislature should be returned by the provincial councils is recommended for consideration—paragraph 29, page 403.

5. Half the elected members of the upper chamber and one-fifth of the elected members of the lower chamber may be elected by the local legislatures and the remaining may be elected by direct vote as at present—paragraphs 29, 114 and 115, pages 403 and 433.

SIZE AND EXTENT OF CONSTITUENCIES.

6. The size of the constituencies should be appreciably reduced to allow candidates and members to get into real and direct touch with the electorates—paragraph 30, page 404.

CLASSIFICATION OF CONSTITUENCIES.

7. Classification of constituencies into rural and urban should continue—paragraph 31, page 404.

8. Towns with a population of 5,000 or above should be included in the urban constituencies—paragraph 31, page 404.

ELECTORATES.

9. For the present separate electorates must continue for the Muslims and also for the Sikhs if they so desire—paragraph 42, page 407.

10. Europeans and Anglo-Indians should also be allowed to return their representatives through their own electorates—paragraph 43, page 407.

11. Indian Christians may be similarly treated in case they desire to secure direct representation by election—paragraph 44, page 408.

12. A clause should be inserted in the revised constitution allowing any community to abandon separate electorates if two-thirds of that particular community in the legislature concerned vote for their abolition—paragraph 45, page 408.

13. All the constituencies should be thrown open to all the communities irrespective of caste or creed—paragraph 46, page 408.

NOMINATED ELEMENT IN LEGISLATURES AND LOCAL BODIES.

14. The practice of nominating official members to the legislative councils should cease—paragraph 48, page 408.

15. Nominated non-official element should be entirely eliminated from the provincial legislatures—paragraph 49, page 408.

16. Nomination to a limited extent may be allowed in the case of local bodies—paragraph 50, page 409.

SUITABILITY OF EXISTING AREAS FOR LOCAL SELF-GOVERNMENT AND PROVINCIAL GOVERNMENTS.

17. The existing units in the case of district boards, municipal committees and small towns are satisfactory and should remain unaltered—paragraph 51, page 409.

18. Village panchayats should be encouraged and developed—paragraph 52, page 409.

19. Zail panchayats should be introduced—paragraph 53, page 409.

20. Delhi as the capital of India should remain as at present a unit by itself—paragraph 58, page 411.

EXTENSION OF REFORMS IN AREAS OTHER THAN THE NINE PROVINCES.

21. Sindh should be separated from Bombay—paragraph 59, page 411.

22. Reforms should be given to Sindh on equal terms with other provinces—paragraph 63 (1), page 412.

23. A beginning of the reformed system should be made in Baluchistan with a view to bring it up to the level of the more advanced provinces within a reasonable period—paragraph 63 (2), page 412.

24. The five settled districts of the North-West Frontier Province should be admitted to the benefits of the reforms on the lines of the Montford Scheme immediately. Provision should be made in the constitution for a further advance within a specified period for bringing the North-West Frontier Province into line with the other major provinces within a reasonably short time—paragraph 63 (3)—66, pages 413 and 414.

Provincial Governments.

25. The numerical strength of the provincial legislative councils should be increased. In the case of the Punjab, the Council should consist of at least 165 elected members—paragraphs 67-68, pages 414-415.

26. Sikhs may be allowed weightage to the fullest possible extent provided that by doing so the Muslim majority is not reduced to a minority or equality—paragraph 70, page 416.

27. Special constituencies should be abolished—paragraph 73, page 417.

28. Seats in the Punjab Councils should be so distributed amongst the various communities as to secure for the Muslims at least one seat more than all the others combined—paragraphs 76 and 81, pages 419 and 420.

29. Officials and experts may be appointed additional members of provincial legislatures for specific periods and purposes. The suggestion that the official block should be retained as at present but without the right to vote is not opposed provided that power is vested in the legislatures to eliminate official element at their discretion after a specified period—paragraphs 48 and 83, pages 408 and 420.

30. Life of the provincial councils should be fixed at five years instead of three—paragraph 85, page 421.

31. Formation of second chambers is undesirable. In the Punjab it will be redundant and useless—paragraph 86, page 421.

32. The system of dyarchy should be abolished. Unitary form of government should be introduced in the provinces—paragraph 88, page 422.

33. Provincial executive should consist of a Governor and a cabinet of not less than four and not more than seven ministers including the Chief Minister—paragraph 90, page 423.

34. Cabinet should be responsible to the legislature—paragraph 90, page 423.

35. Officials should not be appointed as ministers—paragraph 93, page 424.

36. Chief Secretary should act as *ex-officio* secretary to the cabinet—paragraph 94, page 425.

37. Ministers should be directly and jointly responsible to the legislature—paragraph 95, page 425.

38. The Governor should be the constitutional head of the province with necessary powers of veto and interference, which can be utilised in cases of emergency—paragraphs 98-99, pages 426-427.

39. Any powers of supervision or interference which may be vested in the Governor-General shall be exercised through the Governor as Agent to the Governor-General—paragraph 100, page 427.

40. The provinces should be given full responsible government immediately and all subjects should be transferred to popular ministers without any reservation—paragraph 101, page 427.

41. The power of supervision and interference vested in the central government should be limited to those subjects in which the central legislature is interested and such other matters and occasions when interference may be rendered necessary in the interests of security and stability of the country as a whole—paragraph 104, page 429.

42. The central and provincial subjects should be carefully divided into two clear cut compartments—paragraph 104, page 429.

43. A federal system of government should be adopted as being the safest and most suitable for this country—paragraph 109, page 431.

44. Residuary powers should be vested in the provinces—paragraph 111, page 432.

CENTRAL GOVERNMENT.

45. Full responsible government should be granted to India on a federal basis subject to the reservation of the portfolios of defence and foreign affairs for a specific period—paragraph 112, page 432.

46. Any further advance towards the responsibility of the executive to the legislatures in the central government should not precede or synchronise with the establishment of autonomy in the provinces—paragraph 113, page 433.

47. The upper chamber should consist of 200 members—paragraph 114, page 433.

48. The Legislative Assembly should consist of at least 500 members—paragraph 115, page 433.

49. The term of the upper chamber should be fixed at seven years and that of the Assembly at five years—paragraph 116, page 433.

50. The Governor-General should be the constitutional head of the Government of India with powers of veto and certification in case of necessity—paragraph 117, page 433.

51. Any powers of supervision that are retained by the British Parliament should be exercised through the Governor-General —paragraph 117, page 433.

52. The central executive should consist of from six to eight ministers, including the Minister for Defence and the Minister for Foreign and Political Affairs—paragraph 118, page 433.

53. Small boards or committees should be established to assist Ministers—paragraph 118, page 433.

54. Parliamentary secretaries should be appointed to relieve the ministers of routine work and to represent the ministers in the popular or the upper chamber as required—paragraph 118, page 433.

55. India should be divided into five more or less equal and homogeneous units for the purpose of electing representatives to the central legislature, each unit returning 100 members to the Assembly and 40 members to the upper house—paragraph 120, page 434.

56. One-third of the total number of seats, both in the upper and the popular chambers of the central legislature, should be reserved for Muslims—paragraph 121, page 434.

57. One seat in each house of the central legislature should be reserved for Europeans in the Punjab—paragraph 122, page 434.

58. At least one member from each province should be elected to represent commercial interests in the Assembly—paragraph 123, page 434.

59. India should remain an integral part of the British Empire—paragraph 124, page 434.

60. Provinces should be allowed greater freedom in the matter of raising loans for development purposes—paragraph 130, page 437.

SEPARATION OF JUDICIARY AND EXECUTIVE.

61. Separation of executive and judicial functions should be immediately taken in hand—paragraphs 131-133, pages 437-438.

SERVICES.

62. High Court Judges should be appointed by the Crown on the recommendation of the local governments—paragraph 135. page 439.

63. Recruitment to the Indian Civil Service and the Indian Police Service should continue to be made by the Secretary of State as at present—paragraph 136, page 439.

64. Recruitment for other all-India Services should be made by the Central Public Services Commission. Quota for each province should be fixed—paragraph 136, page 439.

65. All provincial services should be recruited by a Provincial Public Services Commission—paragraph 137, page 439.

66. All powers of discipline and control should vest in the heads of departments. In the case of the Indian Civil Service and the Indian Police Service two successive appeals to the Public Services Commission and the Secretary of State should be allowed in respect of punishments short of dismissal—paragraph 139, page 439.

67. Members of the provincial branches of the civil and police services and all other provincial services should have a right of appeal to the Public Services Commission in case of dismissal. In all other cases, all punishments or disciplinary action affecting the members of these services should be governed by rules framed by the local government—paragraph 140, page 440.

PUBLIC SERVICES COMMISSION.

68. Members of the Public Services Commissions, both central and provincial, should be appointed by the Secretary of State—paragraph 141, page 440.

ASSOCIATION OF PROVINCIAL ADMINISTRATIONS WITH ADMINSTRATION OF RAILWAYS.

69. A special committee should be appointed to go into the question of associating local administrations with the administration of railways in each Province, without affecting the essential control by the central government—paragraph 144, page 441.

SAFEGUARDS FOR THE RIGHTS OF MINORITIES.

70. A clause should be embodied in the revised constitution to safeguard the legitimate rights of minorities with regard to their culture, religion, language, personal laws, endowments, foodstuffs, etc., in the local, provincial and central spheres, respectively—paragraph 145, page 441.

Note of Dissent by Raja Narendra Nath and Dr. Gokal Chand, Narang.

We have carefully gone through the report of our colleagues, and we regret, that we have to record a note of dissent. We not only differ from the scheme of extension of reforms formulated by them, but we are constrained to adopt a view point for which our colleagues have shown the way. As members of the Punjab Provincial Committee we should have confined ourselves only to our province, but our colleagues have gone beyond the

strictly provincial sphere, and have advocated schemes of provincial governments for other provinces. They seem to be anxious to pair off the Hindu majority, which exists in several provinces, with Muhammadan majorities in other provinces, and for this purpose they advocate the separation of Sind, and the introduction of responsible Government in a province, which has so far been left out of the operation of the Reform Scheme. This mentality of our colleagues, forces on us an examination of the proposals for other provinces, in order to see what measures of reform and safeguards, have been recommended in other provinces, the general conditions of which are similar to those of the Punjab, with this difference that the minorities belong to the Muslim community. The Government proposals for other provinces therefore become relevant and form a material " which falls within the scope " (as understood by our colleagues) of the Punjab Provincial Committee. These proposals have been withheld from us. Only for Madras we are referred to a report of the Government Memorandum in the " Hindu." We are not at all satisfied that the assurance given by the Chairman of the Indian Statutory Commission, in the message conveyed to us, and printed at pages 392-3 of the report, has been fulfilled in letter and spirit. Our remarks therefore on constructive proposals for the Punjab, must be regarded as of a provisional nature, which can assume finality only when we are satisfied, that no province in Northern India, with conditions similar to those of the Punjab, has been treated with less liberality.

Before examining the recommendations of our colleagues in detail, we should like to offer some general remarks. Their recommendations contain elements of an incongruous and incompatible nature, which cannot be combined on any rational conception of democratic government. Continuance of separate electorates in the Punjab is advocated for Muhammadans, though they form a majority in the province. Observations made in paragraph 163 of the Montford report are completely disregarded. Reservation of a majority of seats for Muslims (though only a bare majority) has been recommended. The question of redistribution of provinces is tackled, but only the separation of Sind is recommended and this without solving the communal question, and without waiting to see, how the ultimate solution of this great problem by the Commission, will eventually and in course of time bring together the two great communities, Hindus and Muhammadans. Our colleagues are cognisant of the fact that the majority of Hindus are opposed to communal representation, whilst the Muhammadans, with a few exceptions, want communal representation and separate electorates everywhere and in all provinces, regardless of the fact, whether they form a majority or a minority in that province. They advocate the maintenance of separate electorates not as a protective measure to prevent one community from over-reaching the other, but as a separative measure. Our colleagues belong

to the latter school of politics, and presumably would propose separate electorate even for Sind. They would not allow any powers of control to the central government over matters relating to taxation by the provincial governments, and whilst admitting that Sind by itself is a deficit province, they propose to make up that deficit from the income of lands to be brought under cultivation under the Sukkar Barrage Scheme; forgetting that the capital expenditure on the Sukkar Barrage Scheme, will have to be reimbursed and will be the first charge on the income. They, however, contemplate the imposition of further provincial taxation to make up the deficit, taxation which will be imposed by a council elected presumably by separate electorates. Whilst universal adult suffrage is held up as the ideal of franchise law to be realised within 10 or 20 years, joint electorates, according to our colleagues, are only possible when the relations between the two communities improve, and there is a genuine union of hearts between them. In the meantime the extreme disruptive forces of separate electorates will continue to operate. We cannot conceive a worse example of a vicious circle.

The recommendations of the Nehru Report are adopted only so far as they are favourable to the Muslims. But the wholesale condemnation of communalism by that report is ignored. The report, it is forgotten, is an organic whole, and cannot be split up into parts.

It is proposed, that responsible government should be extended at once to North-West Frontier Province, and that provision should be made in the constitution, to bring the province on par with others within the near future. We have had no evidence before us on the very important question of introducing responsible government in the Frontier Province. The first and foremost consideration, to which every weight should be given is how the defence of the Indian Empire will be affected, by making these provinces autonomous, provinces which are contiguous to a tract inhabited by tribes who owe no allegiance to any government, and who for the last 1,000 years have retained their character as raiders and marauders. It must be remembered that between the inhabitants of the five settled districts, and the independent territory, as also the territory beyond, there is not only religious but tribal affinity. Will the Shinwaris, Mohmands and Afridis, of the five districts tolerate punitive measures, which are forced on the Imperial Government, from time to time, by such incidents as the kidnapping of Miss Ellis, and the murder of Mrs. Ellis? If they will not, what will be the effects of these expeditions on the attitude of Shinwaris, Mohmands and Afridis in the Council, towards vote on supplies? It is a well-known fact, that supplies are refused not on the intrinsic merits of the demands made, but often on considerations quite extraneous. To propose responsible government for these provinces, and to hold out a promise of

treating them on a par with other provinces, without hearing what the local officers who possess the necessary experience, have to say and without hearing the military experts is, to belittle the importance of the defence of the Indian Empire.

We observe that the report has been signed by two non-Muhammadan gentlemen, Rai Sahib Chaudhri Chhotu Ram, leader of the Unionist party, and Mr. Owen Roberts. Rai Sahib Chaudhri Chhotu Ram's support only confirms our view, that the Unionist party is really a Muslim Party, masquerading under an economic garb. Mr. Owen Roberts as a European, was expected to bring a non-communal outlook to bear on the question. There may be more than one reason for his not being able to do so. We do not wish to enter into them.

We now proceed to a detailed examination of the report. In paragraph 11 it is stated that the criticism of the Land Alienation Act is irrelevant to an enquiry relating to the future constitution of the Government. We wish to explain that no one ever asked for a provision in the constitution directing the repeal of this Act. All that has been asked for, is that there should be a clause in the constitution, interdicting the determination of civic rights on the basis of caste and creed. Our colleagues have felt the necessity of a clause protecting the interest of minorities. We are not satisfied with the suggestion made as to the lines on which it should be drafted. We will deal with this question in this note at a later stage. Supposing we are able to show that the determination of civic rights on the basis of caste and creed, should be interdicted or should be checked if the goal of responsible government which has been promised to us by a declaration made by the British Parliament is to be attained, supposing we are able to prove that the assertion of those principles ought to be the basic principle of every democratic government, and that without incorporating a clause in the constitution the transfer of responsibility to the legislature is unreal, and that its omission only enables the executive to adopt different lines of cleavage on different occasions, why should our colleagues fight shy of the clause simply because it stultifies not the protective, but the discriminative nature, of the Land Alienation Act. Is the Land Alienation Act more sacrosanct than the declaration of 20th August, 1917, or than the duty enjoined on the Governors by the Instrument of Instructions issued by the King?* We simply ask the British Parliament to devise a constitution which will facilitate and not retard our progress towards responsible self-government, and which will prevent, as far as possible, the mutual aggression of castes and communities by the other. It is immaterial whether a constitution framed on these lines impinges upon an enactment of a subordinate legislature. Can it be reasonably held that if a state of things exists, which enables a group of privileged castes constituting one-half of the population, to

* *Vide* paragraph VII (5) King's Instrument of Instructions.

elect representatives, who form nearly 70 per cent. of the strength of the Council, no remedy should be devised for it? Is it expected that if these conditions are not remedied the half which is inadequately represented† " will look for the redress of their grievances and the improvement of their condition to the working of representative institutions "? Is the Statutory Commission, the Joint Parliamentary Committee or the British Parliament expected to sit with folded hands, and to think of no remedy because it may encroach on an Act, which is looked upon by half the population as their magna charta, and by the other half as the charter of their slavery. No Muhammadan ruler, nor even a Hindu ruler who exercised authority after the downfall of the Moghal Empire ever imposed any restriction direct or indirect on any caste in the choice of an occupation or calling. The British Parliament is asked by our colleagues at the time of introducing responsible government on a democratic basis to refrain from asserting a principle which may forbid such restrictions. Surely the logic of our colleagues is beyond our comprehension.

To lay down general principles of justice and fair play, which should guide the legislature and the executive of provincial governments, is not interference with provincial autonomy. Fundamental laws defining rights of citizens are to be found in most constitutions of democratic governments of the present day. The British constitution is the example of a flexible constitution, but even the constitutional history of England chronicles a declaration of rights, which no law so far made by Parliament has overriden, and which no law to be made in the future is likely to override.

Our colleagues have cited with approval the evidence of Mr. Harkishan Lal; but have proposed a scheme of advance which runs counter to the evidence given by the same witness before the Muddiman Committee. See answers given by him to questions number 16-19 and 24-25 before that committee.

On the subject of communal dissensions, we are in agreement with the observations made in the official memorandum, as to the effect of the Reform Scheme in promoting mutual conflict.

Franchise.

In considering how far the franchise should be lowered, we cannot ignore certain important points which have a close bearing on the subject. (i) The size of the constituencies should not become unwieldy. (ii) The limited number of men of suitable qualifications, which under the present general conditions of the province, are available for membership. (iii) We are constrained to remark (maintaining the viewpoint of our colleagues) that the proportion of population enfranchised in this

† Paragraph II *ibid.*

province, should not be allowed to vary much from the proportion enfranchised, in other and neighbouring provinces. Taking all these matters into consideration we are of opinion that the recommendations made in the official memorandum should be accepted.

METHOD OF ELECTION.

We are opposed to the suggestion that a certain proportion of the members of the Assembly should be returned by the Council. We look upon this as a retrograde step, and we are unable to reconcile this suggestion with the democratic spirit shown by our colleagues, in recommending that the franchise for the Assembly and the Council, should be lowered. We do not favour the policy of going backward, though caution may characterise our recommendations for further advance. Questions coming up before provincial legislatures are of a nature quite different from those coming before the central legislature. The mental outlook of the two classes of representatives is different. In the Punjab Council, communal and class outlook is predominant, and we do not wish that this should be reflected in the central legislature. If up to this time a certain class or community, has failed to return its best men for the central legislature, the fact is attributable to the paucity in that community, or class of able men or men who can bring a broad outlook to bear on questions, coming before the central legislature.

JOINT OR SEPARATE ELECTORATES.

On the question of joint or separate electorates we invite the attention of the Joint Conference to a note already submitted by one of us, Raja Narendra Nath, in which this subject has been fully discussed, and in which joint electorates with reserved seats, maintaining the present proportion between the communities have been advocated. We only wish to add that when a minority community thinks that it in combination with other minorities can appreciably influence the election of the members belonging to the majority community, what justification is there for refusing the demand of the minority community or communities, simply on the ground that the majority community claims special opportunities in addition to what its numerical strength gives it, for asserting or exercising its communal ascendency? Separate electorates in the Punjab will simply perpetuate separation and maintain the present communal tension.

THROWING OPEN OF CONSTITUENCIES FOR ALL.

The recommendations of our colleagues that all the constituencies should be thrown open to all the communities irrespective of caste or creed is, with due deference, a ridiculous one and cannot be treated as serious. It sounds incongruous to throw open the constituencies to representatives of all, while the constituencies themselves are framed on communal lines.

There is not the remotest possibility of a Hindu being returned from a Muslim constituency or a Muslim candidate returned from a Hindu constituency.

Redistribution of Provinces.

Paragraphs 55-62 of the Report.—We do not think that our committee should have dealt with the question. We have not had the necessary evidence before us. It is perfectly useless to create new provinces with new majorities and minorities, without experience of the mutual relations between the majorities and minorities, which the new constitution may bring about. The treatment which the minority communities in the Punjab have received under the reform scheme, has caused dissatisfaction amongst them, and no useful purpose can be served by creating new centres of discontent and disaffection.

Mr. Layton, who as a financial expert gave a very lucid and illuminating statement, was of opinion that there was precious little in provinces besides agricultural income, which could be taxed, and that in order to maintain uniformity in financial policy between provinces, it was necessary to give to the central government, the power of supervision and control, in matters of taxation over provincial governments. No provincial taxation in Sind, can make up the deficit unless local governments are allowed to transgress all reasonable limits, in imposing taxation.

With regard to Baluchistan our colleagues propose that " a beginning should be made in that province with a view to bringing it up to the level of more advanced provinces within a reasonable period." This is much too vague a recommendation. Baluchistan is not only a Frontier Province, but a province with a nomadic population, where it is difficult to introduce education on a large scale. Areas with a fixed population, which can be served by schools are very few. Without hearing local officers and military experts, it is impossible for us to suggest any changes in the government of this province or of North-West Frontier Province. As to the latter we learn from newspaper reports, that even the Khans are opposed to the introduction of any system of election. Considering the feudal character of the population, and their exceedingly excitable temper, and bearing in mind also the fact that election has not been introduced even for local bodies in this province, we think it extremely premature to think of introducing a " reformed " system of government in that province. The proposal that the province should be brought up on the earliest date to the level of other provinces in respect of provincial autonomy appears to us to be " a big jump into the Unknown."

Provincial Government.

Size of Provincial Legislature.

We think that the number proposed by the provincial government, viz., 125, is sufficient and should not be exceeded. We

have already referred to the difficulty of getting men of suitable ability for work in the Councils.

As to the representation of various communities we are strongly of opinion that the present proportion should be maintained. We strongly object to the apportionment proposed in paragraph 75. In both the alternatives proposed, viz., number of members, (1) without special constituencies, and (2) with special constituencies, the proportion assigned to Hindus is less than their proportion in the population. At present the number assigned to the Hindus in territorial constituencies, falls below their proportion in the population, whilst with the special constituencies, it barely comes up to that proportion. In Assam the proportion of Muhammadan population is 28.9 per cent., slightly less than the proportion of Hindus in the Punjab. The proportion of Muhammadan members in the Assam Council is 30.7 per cent., see Appendices I and II attached to Communal Representation in the Legislative and Local Bodies, E.-Ind. 209.

With regard to the Sikh representation, Sardar Ujjal Singh, our colleague, is writing a separate note. We are, however, of opinion, that as long as the principle of weightage for minorities is recognised, and there is reservation of seats for communities, there is no reason whatever for reducing the present proportion of Sikh representation in the Council. The Sikhs in the Punjab are a very important community. Within the last century they were the rulers of the Punjab. Their contribution to the army is much larger than that of any other community in proportion to its population. They have extensive landed interests, large and small. Neither the Sikhs nor the Hindus of the Punjab, are in any way responsible for the present proportion of Muslim population in various provinces. Why should the Hindus or the Sikhs of this province suffer because the Muslim population in the Punjab is no more than 55 per cent.? Why should it be necessary for them to have even a bare majority of seats reserved? The proper course for our Muslim fellow countrymen is to consent to an electoral system, in which they should be able to influence the election of the representatives of other communities, and give the same opportunity to other communities to influence the representatives of the Muslim community.

We do not see why the continuance of special constituencies should be opposed, because in the recent elections, since separate electorates have been introduced, no Muhammadan has been returned by the University or Industry constituency. As long as special constituencies are allowed in other provinces, there is no reason why these should be discontinued in the Punjab. On the contrary, with the increasing agricultural produce of the province, owing to new areas coming under cultivation, there is every reason to expect that industries dependent on agriculture will develop and that new factories for ginning cotton and pressing of oil, etc., will be opened. A glance at Appendix II

attached to E.-Ind. 209 will show that in the Punjab the smallest number of seats has been assigned to Commerce and Industry, whilst the Punjab is the only province in India in which a special constituency exists, consisting only of 10 Muhammadan voters, viz., that of Tumandars. Surely there should be some reasonable limit to solicitude for the interests of one community. We are of opinion that the Commerce and Industry seats in the Punjab should be increased from two to four which, however, will represent only a slight increase in the percentage of existing representation as the total number of elected seats will be nearly doubled. The Tumandar constituency should be abolished.

The Cabinet.

As long as communal representation is recognised even to the extent of reservation of seats, the cabinet should represent all the important communities in the province.

Second Chamber.

We do not see why our colleagues should object to the formation of a second chamber in the Punjab. If these are established in any part of Northern India, we do not see why the Punjab should be treated differently. Do our colleagues mean, that over the Punjab proletariat represented in the lower House, no steadying influence need be exercised? As to the composition of the second chamber, we refer to the observations made by one of our colleagues (Raja Narendra Nath) in the note which he submitted on the 1st of April.

Provincial Autonomy and Transfer of Law and Order.

Form of the central government.

We regret we do not quite understand the statement of our colleagues, that the federal system is the safest and most suitable form of government in this country. It is not clear what is intended to be conveyed in this statement. We, however, want to make it absolutely clear that any system which weakens the central government will intensify the centrifugal tendency of the various provinces, and may in case of any unusual circumstances create a temptation in the provincial governments to break loose from the central government altogether. That this apprehension is not unfounded is amply shown by the history of India for the last 2,000 years. India was strong and free as long as the central government was strong. As soon as the central government became weak, the provinces fell off from it, and the whole country fell an easy prey to foreign invasion. We need hardly state that what we want is a free united Indian nation, and not so many States loosely held together. We reiterate that provinces are creatures of administrative convenience, and if India were not such a large country no question of separate provincial governments or provincial autonomy would

arise. The provinces will enjoy full measure of responsible self-government within the sphere specifically allotted to them. Anything more than that is in our humble opinion calculated to endanger the commonwealth.

The powers of local governments in the matter of taxation should continue to remain as at present. In the present state of affairs, if freedom for taxation is given to local governments, it is liable to be abused, and to create inequalities between one province and another, and even within the province between one community and another.

Residuary powers.

While agreeing that the central and provincial subjects should be specified, we would recommend that all residuary powers should be vested in the central government.

With regard to what our colleagues have termed provincial autonomy, we observe that our colleagues have not made it clear whether the control which the central government has at present over the provincial government and the continuance of which in the legislative field has been recommended by the Punjab Government, should be retained. We are distinctly of opinion that it should be retained. We consider it, however, necessary in the interests of all concerned that the High Court should be a central subject, all the relevant sections of the Government of India Act should be amended accordingly. The High Court budget should also be non-voted. The local legislature should have nothing to do with the appointment or removal of High Court Judges, as suggested in paragraph 135 of the Report.

With regard to the transfer of Police, we wish to point out that communal tension has been more intense in the Punjab than elsewhere, and that the communities in the Punjab are more virile than in any other province in Northern India, now under the operation of Reform Scheme. The Punjab needs more safeguards than any other province further east. It should, therefore, rank with those in which the least change in the existing conditions is recommended. It was suggested by the Hindu deputation which waited on the Commission during its sittings at Lahore, that law and order may be treated as a central subject. As the suggestion came from an important organised body, we put it forward for consideration by the Commission.

We wish to offer no opinion on the changes proposed in the central government beyond this, that no extension of powers to popular control should be made, unless a proportionate extension of responsibility is made in the central government. It would be extremely incongruous to subordinate reformed governments in the provinces, to the control of the old hide-bound bureaucracy in the central government. Moreover, the demand for and the sentiment regarding Swaraj, can never be satisfied, with full provincial autonomy on a federal basis unless responsibility on a liberal scale is introduced in the central government

as well. Indians will never consider themselves a free nation unless the central government is freed of bureaucratic control.

We are opposed to the system of election for central legislature as suggested in paragraph 120 of the report. We do not see why the present arrangement should be changed. One obvious objection to the scheme proposed is that the elections for the Assembly will have to be run by the central government, an idea which runs counter to decentralisation generally advocated by our colleagues. Another question which will be difficult to solve is, how the electoral circles or constituencies will be formed, and how in forming them it will be possible to maintain the proportion of representation which each community now enjoys separately in each province.

Services.

All appointments, high or low, should be made strictly on merit. All recruitment should be made by the Public Services Commission and the disciplinary action taken by the heads of departments or by Ministers, should be appealable to the Commission.

Fundamental Rights and Safeguards for Minorities.

Paragraph 145.—We are pleased that our colleagues feel the necessity of inserting a clause in the constitution, which prevents any encroachment on the " legitimate rights of a minority relating to their culture, religion, language, personal laws, endowment, foodstuffs, etc." Our colleagues say that it should be made *ultra vires* for any legislature, central or provincial, to pass any enactment affecting any of these matters, without assent of two-thirds of the members representing the community to be affected by such a measure. We do not know what " *et cetera* " covers. We approve of the suggestions, that enactments affecting the culture, religion, and personal laws of a community should be passed only with the consent of two-thirds of the members representing that community. We should have been glad if the proposed clause had been drafted and put before us; but this has not been done. There are, however, other important civic rights of a minority community with respect to which they need assurance, that they will be justly treated : these are entry into services, trade, industry, entry into educational institutions, and acquisition of right or title in property. Where discrimination is made, in respect of any class of these rights, between one half of the population and the other half, such discrimination is all the more condemnable. The proposals made by the local government for the protection of minorities, are inadequate for the purpose for which they are intended. On the contrary, there is a risk of differentiation between two provinces in respect of the treatment of minorities. Unless, therefore, there is a right of appeal to the head of the central government, such a provision involves risk of differentiation. Atten-

tion is invited to the remarks made by one of us, Raja Narendra Nath, under the head of " Protection of Minorities " in his note. Instances have been quoted which need not be repeated, in order to show that the head of the Government, whether provincial or central, seldom interferes with the working of the Council in a department, which has been transferred to the legislature. The only possible remedy is to insert a clause, which will ensure equal and just treatment of all classes, in respect of important civic rights, and to make an infraction of the clause appealable to the judicial tribunal. A draft clause has been suggested by one of our colleagues which we hope will be considered by the Commission. One of us, Dr. Narang, does not agree to any reservation in the case of services, recruitment to all of which, in his opinion, should be made strictly on merit.

From what we have said above it would be clear that our colleagues' recommendations are actuated by purely communal feelings. They want communal electorates, communal representation in the legislatures, one-third Muslim representation in the central legislature, introduction of Reforms in Baluchistan and the Frontier Province, and the creation of Sindh into a separate province. If any further proof were needed of their limited outlook, it is furnished by the fact that they do not desire introduction of responsible government in the central legislature, either to precede or even to synchronise with provincial autonomy. No patriotic Indian with any sense of justice or with aspirations for the emancipation of his country, could be expected to endorse these views. *A fortiori,* it was impossible for us as Hindus to agree to any such recommendations which our colleagues have thought fit to put in black and white.

Our own case is absolutely clear and simple. We want to expedite the day when our country is as free as the Dominions, and an equal partner in the British Commonwealth of Nations. We want communalism to disappear altogether from electorates, from legislatures, from services, and, in fact, from every department of political and administrative life of the country; in short, we want that civic rights should not be determined on the basis of caste and creed. We want to do justice to every community, everyone to have a fair field and no favour. We want all the minorities to be protected in every possible way, not inconsistent with the real aspects of national life, and not incompatible with anything necessary for national advance towards the goal of freedom. If Great Britain is honest, and the sending out of the Commission was not the mere formal fulfilment of a statutory provision, if it is really intended to put India on the path of political and constitutional progress, let our constitution interdict communalism. This would be a conclusive test of the *bonâ fides* of the Great British Nation. For ourselves we would be perfectly content if our advance is slow but is in the right direction. In our opinion, no province would

deserve any political advance if it is not prepared to abandon communalism. We see no difficulty or danger in the abolition of the communal principles, but even if there were any it would be a temporary one, and must be faced in the true interests of India's progress.

As we have stated above, India would not be satisfied in the least, unless responsibility is introduced in a liberal measure in the central government. No amount of devolution of power in the provincial sphere on communal lines would lead India towards the goal, and we have no hesitation in declaring that the whole effort will be wasted and the labours of the Commission will prove to be a sham and a farce unless this all essential step towards the unification of India is taken, and a good beginning is made with infusion of a spirit of nationality in provinces and an advance on national lines in the central government.

It is reported that His Highness the Maharaja of Patiala, the premier Sikh ruling chief in the Punjab, has recently issued the following order :—

> " Whereas it has been our most cherished wish and desire to treat and behold equally all our subjects, committed to our charge by the benign and merciful Providence, of all classes, communities and denominations and to countenance no distinction or differentiation as to their rights or duties because of their caste, creed or religion, we, therefore, want to make it known to all concerned and to impress on all officers of our government, high or low, that our policy in this respect must always be carried out most scrupulously and diligently without fear or favour. It has been a source of great satisfaction and pride to us that agitators from outside have not so far been able to foster or foment communal differences, within our territories, and we trust and are confident that our beloved subjects will continue to follow the tradition of tolerance and amity, so long associated with our State and our people. None the less, we deem it necessary to proclaim that all delinquencies in this respect shall incur our serious displeasure and shall be visited with severe punishment."

Are our colleagues unable to advise the British Parliament to incorporate in the constitution a clause in which the above *Farman* of the Sikh ruler of a State in the Punjab is substantially reproduced, or are we to believe that the British Parliament pleads its inability even on the eve of giving autonomy to provinces, to rise up to the level of statesmanship, shown by a Feudatory Chief of our Province?

We heartily associate ourselves with the remarks made in the foreword and in paragraphs 154 and 155 of the report appreciating the work of our President, the Secretary and of Mr. Ayyar and his assistants.

The note submitted by Raja Narendra Nath on the 1st of April may be read with this note and is appended herewith (see Annexure).

NARENDRA NATH.
GOKAL CHAND, NARANG.

Note of Dissent by Sardar Ujjal Singh.

1. I have been closely associated with the report whith my colleagues have submitted. I regret that I cannot give my assent to all the recommendations made by them. I feel that many of the recommendations made by my colleagues would not appeal to the minority communities in this province and the points on which I differ from my colleagues are so fundamental that I think it absolutely necessary to record my views with respect to them.

FRANCHISE.

2. The total number of electors under the existing franchise is 6,82,447 males and 21,381 females. The percentage of total electors to the total adult population is 12.2 per cent. of the adult male population. The number of female voters is rather small, but this is due to shyness on the part of the female population to register themselves as voters. However, with the rapid social advancement that is going on in the country there is a great probability that the number of female voters will considerably increase even under the existing franchise.

The tenant class in the rural areas under the existing franchise possesses no vote. If tenants paying Rs.25 land revenue are given the right to vote, a measure which would remove inequality between the urban and rural qualifications, the number of electors will be doubled (*vide* estimate given on page 16, Punjab Government Memorandum, Part 1, Vol. I).

Thus taking into consideration the probable increase in female voters and the increase as a result of enfranchising the tenant class the percentage of electors under the existing qualifications will rise to about 25 per cent. of the adult male population. It may be urged that this percentage is too low, but the objection is more or less sentimental. The Punjab Government admits (*vide* their memorandum, Vol. II, page 3) that " though the electorate is 3.4 per cent. of the total population it is probable that on the whole it reflects with some accuracy the feelings and opinions of the remainder." The memorandum further says that " there are some classes important at any rate in point of number which are not at present directly represented, such as tenants-at-will and the daily wages labourers in rural areas; but they are inarticulate and it would be difficult to say at the moment how far these sections of the community feel themselves to have interests strikingly different from those which are represented in the electorate." So, when the tenants

are given the right to vote, this objection would also be removed, and the electors in that case might be considered to represent the views of almost the whole population. Moreover it should not be overlooked that the majority of the electors in the Punjab are illiterate and any great extension of franchise should follow equal progress in education. Electors at present choose between personalities rather than policies. A change in this respect in the attitude of the electors must depend not only on the progress of education but on the development of political programmes and the organisation of parties towards which the Punjab has not made much progress.

Of the important evidence presented before the Joint Free Conference, the Punjab Government recommends the lowering of the franchise to Rs.20 payment of land revenue in the case of landowners and the enfranchisement of the tenant class paying Rs.25 land revenue. In urban areas it recommends the reduction of the rental qualification from Rs.96 to Rs.72, and of the immovable property qualification from Rs.4,000 to Rs.3,000. Two of the unofficial members of the Government agree with the above proposals while other two recommend Rs.10 as payment of land revenue for landowners and Rs.12 for agricultural tenants as equivalent to the Rs.72 rental and Rs.2,000 property qualifications in urban areas.

The Unionist party of the Punjab Council composed mainly of Muslim members of the council recommends Rs.10 and Rs.15 as the land revenue qualifications in rural areas for landowners and tenants respectively and the same qualifications as are proposed by the Punjab Government in urban areas. The Hindu community is not in favour of extending the franchise on a property basis, but recommends a literary qualification. The Sikh community is not in favour of widening the franchise. The Northern India Chamber of Commerce is of opinion that the basis of the franchise should remain unaltered. The All-India Muslim League alone recommends universal adult franchise.

It is impossible to agree with the idea of universal adult suffrage for a long time to come. Universal primary education, the absence of communalism in the political field and the growth of true political parties are the necessary conditions before adult suffrage can be thought of. My colleagues have unnecessarily raised the Red Bogey of Communism and I am of opinion that the reference might well have been avoided. I agree with them that any excessive expansion of the franchise will entail heavy administrative difficulties.

However, though it is not desirable to broaden the franchise to any very great extent I realise that the tenant class should be enfranchised. This alone would result in nearly doubling the number of electors. I also recommend the reduction of the land revenue qualification in the case of owners from Rs.25 to Rs.20

but would fix Rs.25 payment of land revenue as the qualification for tenants. The urban rent qualification may also be reduced from Rs. 96 to Rs.72 and the property qualification from Rs.4,000 to Rs.3,000 in urban and Rs.1,500 in rural areas. This will have the effect of more than doubling the number of electors, and will result in increasing the percentage of electors to 7 per cent. of the total population and 25 per cent. of the adult male population.

It may not be out of place here to point out that though full responsible system existed in England in 1832 by the First Reform Bill only 3 per cent. of the population got the franchise and in 1867 by the Second Reform Bill 4.03 per cent. of the population was enfranchised and there was no change up to 1884. The percentage of literacy in 1841-45 in England was 67.4 per cent. among men and 51.1 among women, as against 11 per cent. and 2 per cent. in the Punjab. I also think that in order to provide an incentive to education all vernacular and Anglo-vernacular middle passed persons may be given the right of vote for provincial councils.

CONSTITUENCIES.

3. The question of whether the constituencies should be single or plural depends upon the nature of the electorates decided upon and the method of election. If the electorates are to be common and the election to be on the method of proportional representation either by the list system or by the single transferable vote system as has been suggested by me, then the constituencies must be plural. In fact the whole or one-half of a civil division will be one constituency electing several members. In some of the European countries where the method of proportional representation is employed the whole of the country is one constituency. In case separate communal electorates are kept alive then the constituencies for provincial and central legislatures should remain single member constituencies.

METHOD OF REPRESENTATION.

4. I do not think that the principle of indirect representation which seems to have been abandoned altogether should be reintroduced so as to allow the election of a certain proportion of members of the central legislature by the provincial councils. Besides this many practical difficulties are likely to arise if my colleagues' suggestion on this point is adopted. I am, therefore, unable to support this recommendation.

CLASSIFICATION OF URBAN AND RURAL CONSTITUENCIES.

5. The classification into rural and urban constituencies will also depend upon the nature of the electorates decided upon. In case common electorates as suggested by me in the following paragraph are introduced, the classification into rural and urban will not be needed. But if communal representation in any

form is maintained; I do not insist upon the retention of this classification or upon its abolition, but I do insist that this classification should be retained or abolished for all communities and that no one community should be singled out for differential treatment.

ELECTORATES.

6. I do not propose here to enter into a discussion whether communal electorates have intensified communal bitterness or were in any way the cause of creating ill-will between the various communities. But it is not open to doubt that communal representation has kept alive communal feelings in the political field. It has divided the communities into water-tight compartments. It has resulted in diffusing a spirit of communalism in every branch of civic life. It has prevented a growth of a national spirit. It has prevented the growth of parties with a purely political programme. In fact, this system of communal representation has created stereotyped parties. To quote from a Punjab Government memorandum " Parliamentary system under which one party gives place to another on account of a change of allegiance on the part of a portion of the electors or their representatives will have in the near future no counterpart in the Punjab . . . At the same time a member of a minority party can have little grounds for hope in the present conditions that in time to come his minority will be changed into a majority."

This system of communal representation is unknown in democratic countries where parliamentary institutions exist. Minority interests no doubt have to be safeguarded but strangest of all is the fact that it is the majority community in the Punjab that is insisting upon its retention.

In my opinion the system of communal representation has miserably failed in developing the parliamentary system of Government. It should be eliminated from the constitution of India and should be replaced by a system of common electorates. I do realise that minority interests in all the provinces require to be protected. For this reason I suggest that with joint electorates the members should be elected on the principle of proportional representation by the List system or on a system of single transferable vote. The principle of proportional representation is in vogue in many of the European countries, for example, the Irish Free State, the Polish Republic, the Republic of Austria, the Swiss Confederation, the Kingdom of Belgium and the German Republic. I do not claim that this system will be able to drive out communalism from the country, but at any rate it is not open to doubt that it will greatly restrict the play of communal feeling in the political arena.

It is expected that while taking out the sting from communalism it will afford ample protection of the interests of each community. I am conscious of the objection to this

system on the ground of its apparently complicated character. I venture, however, to think that the difficulty is over-estimated. With sufficiently intelligent polling officers even the illiterate voters should not find any difficulty in recording their votes.

It is contrary to all principles followed in democratic countries that the majority community should insist upon separate electorates based on religious distinction. Coupled with the claim to communal representation and an absolute communal majority in the council the motive becomes clear and it does not require a prophet to tell that the motive can be no other than grabbing at absolute power untrammelled by any influence or by obligation to any other community.

I should like to make it clear that my recommendations with regard to common electorates and proportional representation are meant to be introduced for the whole of India and for all communities. I feel that communal feelings in some provinces have their repercussions on the neighbouring provinces. It will be utterly futile to attempt to set up common electorates with proportional representation in one province and to allow communal electorates in others. If reservation of seats is to be allowed to any community in any province, the Sikhs would insist upon such reservation for them in the Punjab, with a weightage allowing them representation to the extent of 30 per cent.

REPRESENTATION.

7. The question of representation of different communities in the legislatures becomes of the greatest importance in case the principle of communal representation in any form is maintained either by separate electorates or common electorates with seats reserved for various communities. The existing arrangement in the Punjab Legislative Council gives representation to the various communities as follows :—

TERRITORIAL CONSTITUENCIES.

Elected ordinary.	*Number.*	*Percentage.*
Muhammadans	32	50
Hindus	20	31.25
Sikhs	12	18.75

Out of the special constituencies land-holders constituency is again distributed amongst the three communities: Muhammadans, 2; Hindus, 1; and Sikhs, 1. The other special constituencies are open to members of all communities alike. So out of a total number of 68 elected seats, ordinary and special, the distribution of seats amongst the different communities is as under—

Muslims	34 *i.e.* 50 per cent.
Hindus	21 *i.e.* 30.9 per cent.
Sikhs	13 *i.e.* 19.1 per cent.

Europeans, Anglo-Indians and Indian Christians are represented by nomination, the first two having been given two seats and the latter one seat. My colleagues now want this arrangement to be modified in order to establish an absolute majority of Muslims in the Council though they are prepared to allow weightage to the Sikhs " to the fullest possible extent." I cannot subscribe to the view that the majority community should in the first instance insist upon communal representation and then upon having a statutory majority over all minorities combined. This is fundamentally wrong. In all parliamentary institutions it is only the minority which has the right to claim protection either by separate representation or by some other means. The Sikh, Hindu and Christian minorities in the Punjab do not seek protection by adherence to the communal principle though they realise that their interests may suffer thereby. They feel that corporate spirit will be better promoted by the elimination of the communal principle. If, however, communal representation in any form is retained, they will in no case tolerate that any single community should have an absolute majority in the legislature of the province. The Muslims may claim a majority in the Council over every other single community but in view of the peculiar circumstances of this provinces, an absolute majority given to one community will be highly impolitic, inequitable and fraught with political danger.

The Lucknow Pact of 1916, on the basis of which the existing arrangement was introduced, was not accepted by the Sikh community nor were they a party to it. It was an arrangement between the Hindus and the Muslims; the interests of the Sikhs were entirely ignored. The Montford Report therefore rightly remarked on the pact as follows (paragraph 163) :—

" We are not aware on what basis other than that of negotiation, the figures were arrived at. Separate electorates are proposed in all Provinces even where Muhammadans are in a majority. . . . While therefore for reasons that we explain subsequently we assent to the maintenance of separate representation for Muhammadans, we are bound to reserve our approval of the particular proposals set before us until we have ascertained what the effect upon other interests will be and have made fair provision for them."

The Franchise Committee, however, failed to consider the effect of the Lucknow Pact on other interests and it took it as a settled fact. The Sikhs were admitted by the authors of the Montford Report as a " distinct and important people." The report went on to say about the Sikhs " they supply a gallant and valuable element to the Indian Army. But they are everywhere in a minority, and experience has shown that they go virtually unrepresented. To the Sikhs, therefore, and to them alone, we propose to extend the system already adopted in the case of Muhammadans." The Sikhs continued to offer their

opposition to the Lucknow Pact. In November, 1918, when in the Punjab Council, Khan Bahadur Sir Fazl-i-Hussain (now the Revenue Member) moved a resolution with the object of maintaining the proportion of Muslim representation at 50 per cent. of the elected Indian members as laid down in the Lucknow Pact, a Sikh member moved an amendment demanding 33 per cent. representation for the Sikhs which would naturally have reduced the Muslim representation below 50 per cent. The amendment was lost, but the Sikhs have never ceased to press their claims. The Sikhs are not at all satisfied with the existing arrangement in which they have only 19.1 per cent. representation in the Council. Under the new constitution in which the official block will be removed the minority interests will require still greater protection. The demand of the Sikhs which they think can adequately safeguard their interests contains two main points. First that out of the three principal communities no single community should have an absolute majority over other communities combined; secondly, that weightage allowing them 30 per cent. representation in the Punjab Council and the same percentage of Punjab seats on the central legislatures should be allowed to them, which they feel is only commensurate with their historic and political importance, their economic position and their military strength. The weightage giving them 30 per cent. representation in the local Council has its parallel in the weightage given to Muslim minorities in other Provinces. For example, in the United Provinces with 14 per cent. population, a representation of over 32 per cent. in the local Council, and in Madras with 5 per cent. population a representation of about 14 per cent. is allowed to the Muhammadans. If the same concession is allowed to the Sikhs as is allowed to Muhammadan minorities, a concession which was pledged to the Sikhs by the authors of the Montford report, the Sikhs are entitled to about 30 per cent. representation in the Punjab. Mr. J. N. Gupta, M.A., C.I.E., I.C.S., in a pamphlet called "The Shackles of Communal representation" has suggested that the number of seats to be reserved for each community should be in proportion to their voting strength. Even on this principle, the Sikh seats should at least be fixed at 25 per cent. Besides it cannot be ignored that the Sikhs are a much more important community in the Punjab than the Muslims are in Bihar and Orissa, in the Central Provinces or in Madras. For (*a*) the Sikhs pay about 40 per cent. of the land revenue and canal charges in the Punjab : (*b*) their voting strength is 25 per cent., and there is an average of 14,000 voters for one Sikh seat as against an average of 11,200 voters in the case of non-Muhammadans and 9,534 voters in the case of Muhammadans : (*c*) they constitute the strongest element in the Indian Army : (*d*) their services to the Empire during the Great War were out of all proportion to their numerical strength. From the very beginning they have contributed most to the

defence of the country. Their sacred shrines with large endowments are all situated in the Punjab. It is only fair that due recognition should be given to their importance in a Province of which only lately they were the rulers. This weightage of 30 per cent. has been the demand of the whole community as voiced by the Chief Khalsa Diwan (the moderate section) and the Sikh League (the advanced section). My colleagues have tried to make capital out of a letter in the *Civil and Military Gazette* written by a Sikh in his individual capacity. But they have failed to take notice of the unanimity of all Sikh bodies, moderate or advanced, in the demand for 30 per cent. representation. There is no just ground why the Muslims should apprehend a combination of minorities against them. In fact the Sikhs have in the past more often thrown in their lot with the Muslims than with the Hindus as their interests as a rural community coincide with those of the Muhammadans. On the other hand the balance of power between the three principal communities will avert chances of communal tyranny. The case of other Provinces as already stated is different from that of the Punjab. Here there are three communities each of which is equally important and the Muhammadans have a comparatively slight numerical advantage. It is not, therefore, to the advantage of the Province as a whole that any single community should occupy a position of absolute majority.

Special Constituencies.

8. Special constituencies such as Landholders, University, Industry and Commerce should be allowed to remain. The constituency of Baloch Tumandars with only 10 electors should however be abolished. The number of Industry and Commerce seats, however, should be increased. The Commerce and Industry interests have been given smaller representation in the Punjab Council than in any other Province. In Madras, Commerce and Industry have six seats in the provincial council, in Assam also six, in the Central Provinces three, in Bihar and Orissa three, Burma five, the United Provinces three, Bombay seven, Bengal 15, while in the Punjab they have only got two seats. In the Legislative Assembly where the commercial and industrial interests of Bombay have been given two seats, of Madras and Bengal one each, the same interests in the Punjab have gone unrepresented. General representation may sometimes result in returning business men and large landholders but it cannot always be relied upon. Even if such interests are indirectly represented by return of suitable men by general election, such members do not possess any mandate from special interests and thus do not carry weight in the House. It is, therefore, necessary not only that special constituencies should be retained but that the number of Commerce and Industries seats should at least be increased to six, which number, how-

ever, will represent only a slight increase in the percentage of existing representation as the total number of elected seats will be doubled.

STRENGTH OF THE PUNJAB LEGISLATIVE COUNCIL.

10. The numerical strength of the Legislative Council of the Punjab should be appreciably increased, but I am of opinion that for some time to come the strength of the Council need not exceed 125.

SECOND CHAMBER.

11. As regards the creation of a second chamber, I am of opinion that it would have a steadying influence on legislation and general administration in the Punjab which contains more jarring elements than other provinces. It would also minimise the chances of the Governor's interference, but I would recommend :—

(*a*) that the electorates for the chamber should be entirely non-communal and territorial;

(*b*) that the qualifications of candidates for election to this chamber should be fairly high, say the existing qualifications for the Council of State;

(*c*) that the strength of the upper chamber should be 60.

I should not oppose the introduction of a nominated element in the second chamber if it does not exceed 20 per cent.

NOMINATED ELEMENT IN THE LEGISLATIVE COUNCIL.

12. The official block should be removed, though we feel that with the removal of this block the need for protecting the minority interests by providing other safeguards becomes greater. I also agree that the nominated element should be eliminated from the legislature (the lower house). I also agree that experts may be nominated as additional members for specific purposes and for specific periods, but I consider that they should have the right only to speak and not the right to vote. Some interests however can not be represented by election such as labour, depressed classes, military classes, etc., and in such cases nomination may be resorted to.

EXECUTIVE.

13. As regards the provincial executive I would recommend that in case the communal principle is adhered to, the ministers should all be appointed by the Governor and all the main communities should be represented in the cabinet, none of the ministers being formally treated as Chief Minister. At least one-third of the Cabinet Ministers should be Sikhs. A vote of censure of ministers must be passed by two-third majority. I would also recommend that the cabinet should have joint responsibility and should be responsible to the legislature and that

an adverse vote of the legislature against any one of the ministers should be tantamount to a censure of the whole ministry which would stand or fall together.

Power of the Governor.

14. While agreeing with my colleagues that the Governor should be the constitutional head of the Province with necessary powers of veto, I want to add that the present power enjoyed by the Governor to remand, give, or withhold, his assent to any Bill passed by the legislative council should be maintained intact as also the rule that any measure passed by the legislative council should not become law unless it has received the assent of the Governor-General. The powers of the Governor under sections 52 (3) and 72D, of the Government of India Act must be retained. Considering the peculiar conditions of this province the Governor should have the power not only to demand the resignation of any Minister or Ministers but in necessary cases to dissolve the council and take over the administration in his own hands. Powers under section 80c making the previous sanction of the Governor necessary before introducing any measure affecting public revenue or imposing any charge on those revenues should remain. The Governor should have power to authorise expenditure as is essential for financial stability, safety, and public tranquillity.

Provincial Autonomy.

15. While agreeing with my colleagues that the province should be given full autonomy in all provincial subjects, I deem it necessary to add that the Central Government's power of superintendence, direction and control should be maintained. I may add that I do not look upon the provinces as separate states having only certain bonds of union with one another but as mere units brought into existence for administrative convenience and I think it absolutely necessary that the Central Government should have the power to interfere in any matter whenever it deems necessary and should have the power even to suspend the provincial constitution in case of gross mismanagement or abuse of power. Provincial autonomy must be subject to such central control as is now exercised in transferred subjects, and further to such control as is essential to safeguard financial stability. In the legislative field Governor-General should retain power of veto or remand.

Law and Order.

16. I do not object to all subjects being transferred but I consider it absolutely necessary in the interests of all concerned that the High Court should be a central subject and that the provincial government should not have the power of appointment, suspension, or dismissal of High Court Judges. The High Court budget should also be non-voted. The High Court

should also have the power on a reference made to it to pronounce upon the validity of any legislative measure passed by the legislative council. In case law and order are transferred I would recommend that a minister belonging to a minority community should be entrusted with this portfolio.

Residuary Powers.

17. While agreeing that the central and provincial subjects should be specified I would recommend that all residuary powers should be vested in the central government.

Form of the Central Government.

18. It is no use entering into an academic discussion on the point whether the federal or the unitary system of government is better. It is however not possible for me to understand, far less to agree with, my colleagues in the dictum that the Federal system is the safest form of government. In other countries where the Federal system is in existence it was brought about by a voluntary union for the common benefit of what were once entirely independent self-governing states. In India the provinces were never independent nor were they self-governing. They were created as separate units for administrative convenience. The provinces might well enjoy responsible Government within their own sphere but to give the provinces the status of independent states would be sowing the seed of disruption which will ultimately prove disastrous to the safety of the commonwealth of India.

Separation of Sindh.

19. The question of the separation of Sindh from Bombay and its creation as a new province is not a matter with which the Punjab Committee need concern itself. I am of opinion that this question should be decided on its merits involving several financial and administrative problems, the right solution of which alone can entitle Sindh to be a separate province. I, however, strongly deprecate the tendency of setting up provinces on communal grounds.

Extension of Reforms to Baluchistan.

20. It cannot be said how far it is advisable to introduce democratic institutions in a semi-civilised province like Baluchistan situated at the gate of India and inhabited by ignorant and easily inflammable warlike tribes. For lack of full material on the subject I would rather leave this question to the Statutory Commission and the Central Committee.

Extension of Reforms to the North-West Frontier Province.

21. With respect to the introduction of reforms in the five settled districts of the North-West Frontier Province, my colleagues have not given full weight to the sharp difference of

opinion which exists among the people of the frontier province itself on the question of the introduction of reforms in that province. The province has not yet got beyond the tribal system and any country which is still in that stage of evolution cannot look forward to the immediate introduction of reforms on a democratic system.

I may add that the Hindus and Sikhs of that province and almost all the Khans are opposed to the introduction of reforms in that province, as apart from the general backwardness of the people, intensification of the blood feuds and actual bloodshed are apprehended as the result of reforms. If the experiment has to be tried, I would recommend that a beginning may be made by the introduction of reforms on the lines of the Morley-Minto scheme. In any reform scheme that might be introduced in the province the claims of the Sikhs as an important minority community should be fully recognised.

Services.

Since all subjects are to be transferred it is necessary that a new provincial cadre should be set up which might take the place of all-India services. In the case of the Indian Civil Service and the Indian Police Service some British recruits might be considered necessary for some time to come to keep up the standard of efficiency. In that case contracts might be made by provincial Governments on terms which would ensure recruitment of competent men.

For the efficient and honest discharge of public duty without fear or favour by public servants it is necessary that recruitment to services should be entrusted to an independent body such as the Public Services Commission. The Public Services Commission will not only be charged with the duty of recruitment to all provincial services but appeals in cases of reduction, dismissal or other disciplinary action will lie with the Commission.

Recruitment should be made on merit alone which would be determined not only by suitable competitive examinations but also by oral tests by which the common sense, physical fitness and special aptitude of candidates for special services could be judged. The appointment, disciplinary action and dismissal of district judges and sub-judges should however rest with the High Court.

Financial Relations and Powers of Taxation.

The control of the central government over provincial taxation as is now exercised should remain intact.

The existing division of different sources of taxation into provincial and central should not be disturbed. The provincial contributions should not be revived. It is undoubtedly true that the existing sources of provincial revenue are not elastic. In the Punjab after the development of colony areas the chances of revenue expansion are slight. With the prosperity of the

province the expenditure on beneficent departments would greatly expand. It is necessary therefore that some share in the income-tax should be given to the province. I am however against the suggestion of my colleagues that the provincial government might be allowed to levy income-tax to the extent of 50 per cent. in addition to the existing rates of assessment levied by the central government. With regard to income-tax it is essential that the rate should be uniform throughout India. Besides income is not necessarily earned in the place where the tax is paid. Income-tax should therefore be centrally administered and the provinces should not be allowed to tax incomes in addition to the central government, at their sweet will, far less should the income-tax be provincialised. In order to make the provincial revenue more elastic some share of income-tax should however be given to the provinces. The rates of income-tax should be uniform throughout India and should be fixed by the central government.

Emergencies for heavier demands on public revenue are more likely to arise in the central sphere than in the provinces. To enable it to deal with such emergencies the central government should retain residuary powers of taxation rather than depend upon doles from the provinces.

Privileges of Members.

In addition to the privilege already conferred under section 72-D of the Government of India Act, members of the legislatures should be allowed all those privileges which are enjoyed by members of Parliament in England, such as the exemption from sitting as jurors and assessors in criminal trials and immunity from arrest and imprisonment for civil causes during the sessions of the legislature and for some periods immediately preceding and following actual meetings.

Responsibility in the Central Government.

It will be an anomaly not to introduce responsible Government in the central sphere when complete responsibility is sought to be introduced in the provinces. It is hoped that dyarchy which as a system has satisfied nobody will not be revived in the central government. The question of defence and foreign affairs no doubt offers a great difficulty in the present state of the country. But a way out may be found either by keeping these subjects directly under the charge of the Governor-General or by the appointment of a service member in the cabinet. It cannot be denied that no half-hearted measure will satisfy the people. The merits of the proposals will be judged by the public in this country and outside not so much on their liberality in the provincial sphere as on their liberality in the central government.

My colleagues have suggested that one-third of the total strength of the Indian legislature should consist of Muslims. They have suggested this on the principle of weightage for the

minorities. But they have forgotten to suggest the extent of weightage to be allowed to the Sikhs in the central legislature. I submit that the Sikhs should at least be allowed 30 per cent. of the Punjab seats on the central legislature.

I have not been able to understand the advantage of the division of India into certain groups for the purpose of representation in the central legislature as proposed by my colleagues. If the object is to give increased representation to the Punjab I shall support it, as the Punjab is a very important province from the defence point of view to which it contributes the most, but if the object is to place the tiny provinces of Baluchistan, Sindh and the North-West Frontier on an equal footing with regard to representation on the central legislature with other provinces I am strongly opposed to it.

Declaration of Rights.

Lastly, I want to add that considering the present state of affairs it is absolutely necessary that any amendment of the existing constitution should expressly include a declaration of rights forming a fundamental part of the Indian constitution and having the sanction of Parliament. Such a declaration should be embodied in the Government of India Act which may be passed in supersession of the present Act. The declaration of rights should include the following provisions :—

(*a*) No person shall be deprived of his liberty, nor shall his dwelling or property be entered upon, sequestered or confiscated, save in accordance with law.

(*b*) Freedom of conscience and the profession and practice of religion are, subject to public order or morality, hereby guaranteed to every person.

(*c*) The right of free expression of opinion, as well as the right to assemble peaceably and without arms, and to form associations or unions is hereby guaranteed for purposes not opposed to public order or morality.

(*d*) All citizens are equal before the law and possess equal civic rights.

(*e*) There shall be no penal law whether substantive or procedural of a discriminative nature.

(*f*) No person shall be punished for any act which was not punishable under the law at the time it was committed.

(*g*) Every citizen shall have the right to a writ of *habeas corpus*. Such may be suspended in case of war or rebellion by an Act of the central legislature or if the legislature is not in session, by the Governor-General in Council, and in such cases he shall report the suspension to the legislature at the earliest possible opportunity for such action as it may deem necessary.

(*h*) No person attending any school receiving state aid or other public money shall be compelled to attend the religious instruction that may be given in the school.

(*i*) No person shall by reason of his religion, caste or creed be prejudiced in any way in regard to public employment, office of power or honour and the exercise of any trade or calling.

(*j*) All citizens have an equal right of access to use of public roads, public wells and all other places of public resort.

(*k*) Every citizen shall have the right to keep and bear arms in accordance with regulations made in that behalf.

(*l*) Freedom to keep and carry *Kirpans* shall be guaranteed to the Sikhs.

I regret I have to write a separate minute of dissent. The reason is obvious. Being the only Sikh member of the Punjab Reforms Committee I could not agree to any report either of the majority or of my two other colleagues which did not satisfy the legitimate demands of my community. My Muslim friends want a clear majority on the local legislature, want to do away with the control of the central government, want complete provincial autonomy but are lukewarm with regard to the measure of responsibility in the central government, and desire to set up Muslim majority provinces to balance Hindu majority provinces. My Hindu friends do not desire to upset the existing arrangement of representation of various communities on the legislature. Both have their own interests to safeguard. The position of the Sikh community as forming the smallest, yet the most important minority in this province is clear. The Sikh community is against any distinction on the basis of caste, creed or colour. It desires to promote a national spirit as against a communal spirit in India. For this reason even at the sacrifice of its own interests it does not insist upon the retention of a system of communal electorates and would rather see joint electorates with proportional representation introduced in India. But if other communities still persist in calculating their losses and gains with a communal outlook there is no reason why the Sikhs should not jealously watch and safeguard their own interests. The Muslims and Hindus have their representative majority and minority provinces, wherein they can protect their interests by mutual understanding or reciprocal actions. But the Sikhs have all their interests centred in the Punjab. They cannot look for outside help anywhere. They cannot, therefore, tolerate the yoke of a permanent communal majority. The chief cause of the Akali movement was the disappointment caused to the community in the share of representation given to the Sikhs in the reformed Council. I can well conceive the volume of discontent and disappointment that is likely to be created in the Sikh community if its legitimate demands are not acceded to.

I believe the Commission will take note of the force of public opinion in the country and will propose a liberal measure of reforms both in the provincial and the central governments.

UJJAL SINGH.

We have read Sardar Ujjal Singh's note. We agree with him on the principal points urged. We think that he has made out a good case for the Sikh minority in the Punjab being given the same weightage as is given to the Muslim minority in other provinces. It is of course understood by him as well as by ourselves that the proportion of Hindu representation which barely comes up to its proportion in the population is not to be reduced.

NARENDRA NATH.
GOKUL CHAND NARANG.

Annexure.

NOTE BY RAJA NARENDRA NATH ON PROPOSALS MADE BY LOCAL GOVERNMENT ABOUT THE EXTENSION OF REFORMS.

[This note is divided into six parts.

Part A invites attention to evidence produced before the Joint Conference in support of some of the propositions affirmed in the memorandum submitted by me in May last.

Part B deals with the question of minorities.

Part C is on joint or separate Electorates.

Part D discusses the clause, a draft of which was submitted in my supplementary note III; some additions have been made to it.

Part E deals with the line of advance proposed by the local Government.

Part F deals with Local Self-Government.]

A—EVIDENCE, SUPPORTING SOME OF THE PROPOSITIONS AFFIRMED IN MY MEMORANDUM OF MAY LAST.

(1) At page 24 of my Memorandum, I said, that between the politics of the members belonging to rural and urban castes, there was no difference other than this, that the former regard the Act which creates an oligarchy of rural castes, as sacrosant, whilst the latter do not. The following evidence produced before the Commission supports this view :—

The whole of E.-Pun-355, which is an extract from important resolutions of the Punjab Provincial Zamindar League, said to have been attended by 3,000 delegates returned by 22 districts of the Punjab—presided over by Rai Sahib Chaudhri Chhotu Ram, Ex-Minister, should be perused. This document ends with the following resolution :—

> "This league emphatically demands that Dominion Status be conferred on India and complete responsibility granted to Provinces."

In E.-Pun-283, Memorandum submitted by the Punjab Zamindar Association, whose deputation was led by Major

Vanrenen, the observations made at page 4 under the head " Local Self-Government " read more like those of an urban politician thoroughly imbued with the principles of the western political system, than the remarks of a representative of unsophisticated rural classes, accustomed more to a patriarchal, than to a democratic system of Government.

The same mentality is evinced by the plaintive tone of the description given of the position and power of the Governor, and of the position of the Minister, in relation to the Governor, at page 6, paragraphs (*b*) and (*c*), of the Memorandum presented by the Punjab Unionist Party E.-Pun-613 (rev.).

Answers to questions Nos. 65-69, 107-112, 126-127. 152-156, given by Rai Sahib Chaudhri Chhotu Ram as a leader of the Unionist Party may also be referred to. Provincial autonomy, and freedom from the control of the Central Government advocated by the leader of the party, goes beyond what the report of the Nehru Committee, a compendium of the views of the most advanced politicians of India, demands. These answers as also the answers by Chaudhri Chhotu Ram to questions Nos. 152-156 about the nature of the central subjects may be compared with paragraphs 39-42 at page 111 of the report of All Parties Conference, and also with the list of central subjects given at page 127 of the same report. Freedom from all control by the Central Government is wanted for a class whose helplessness, ignorance and illiteracy, is graphically described by Major Vanrenen in answers to questions Nos. 143-156. This party which is the largest single group in the Council wants democratic government of a type more advanced than any existing in the dominions, but would retain a protective law, which is suited only for a primitive society.

(2) At page 108, Appendix III, and at page 169, Appendix VI, of my Memorandum, I have referred to the creation and encouragement of an oligarchy of rural castes. In the Memorandum of the Punjab Zamindar Association at page 9, paragraph (*b*), the existence of two oligarchies or two middle classes is admitted.

(3) A description of the political ideals of the Unionist Party would be incomplete, if I did not refer to the views of the party about the recruitment of services.

This party does not apparently approve of the appointment of the Public Services Commission for provincial services as has been suggested in paragraph 44 of Volume II of the official Memorandum. The Local Government proposes a provincial public services commission, secured by statute in a position of independence similar to that which the Indian Public Services Commission enjoys, under section 96C of the present Government of India Act. The Unionist party at page 9, paragraph (*a*) dealing with this matter proposes that the Central Government

may have a public services commission, if it feels that it requires one. But " Provincial Governments should be left to frame their own rules and to devise their own methods of recruitment," implying thereby that the commission appointed under the Provincial Government responsible to the legislature, will observe in the recruitment of service, the proportions laid down in the Resolution of 1919, which has been quoted *in extenso* at pages 171-177 of Appendix IV, to my Memorandum. Under the head of Indianisation, page 9, paragraph (*c*) of the Memorandum of the Party, there is a clear indication, in the following words, of the wishes of the Party, about recruitment to Services. " Indianisation should be so adjusted and regulated that all classes will receive adequate representation in the Public Services of their country *commensurate with their numbers* and importance." (Italics are mine.)

I have dilated on this matter not to demonstrate the unreasonable nature of the demand, which is manifest, but to satisfy the Conference on two points, (1) that the Land Alienation Act is not simply an economic measure, which in certain quarters it is claimed to be, but is a measure which forms the pivot on which the Punjab politics, both in the Council and outside of it, turn.

Major Vanrenen's Association claims to have ramifications all over the Province and Chaudhri Chhotu Ram's Zamindar League is said to contain representatives of zamindars (a class which numerically consists only of half the population of the Province) from all over the Province. The Act, therefore, creates a *constitutional problem* of great importance. It passes my comprehension why in Volume II of the Memorandum submitted by the Punjab Government the question has not been directly faced; perhaps there are some reasons for it with which I will deal later.

The second point which I wish to impress on the conference, is that the policy of segregation of classes, hedged round by certain privileges, originally intended to be of a temporary nature, leads to the utmost confusion in politics, and is, therefore, highly unwise. Here is a protective law which has created a class on which certain privileges were bestowed ostensibly for their protection, a class which, having now become conscious of those privileges, wishes to retain them permanently, and makes exorbitant demands to appropriate to itself powers which in a democratic system of government cannot be conceded to any class.

(4) At page 26 of the Memorandum, I estimated that the agricultural tribes form nearly half the population of the Province. This estimate is supported by the Punjab Government Memorandum, Part I, Descriptive Matter, Chapter I,

page 9, paragraph 20, the concluding portion of which runs as follows :—

> " The census returns do not tell us clearly what is the population of the agricultural tribes, but it has been estimated at something like ten million or half the population of the Province."

(5) At pages 33-34 of my Memorandum the following passage occurs :—

> " Removal of the official *bloc* will make the position of a Minister belonging to non-agricultural tribes manifestly insecure."

Page 34.—" Thus nearly half the population of the Province would be unable to have its representation in the Cabinet if reliance were placed only on the supply of elected members."

In Volume II of the Memorandum prepared by the Punjab Government, at page 10, paragraph 15, the following passage occurs :—

> " The present system offers the possibility of including in the Executive Council a member of a community not represented in the Ministry; and the existence of the official *bloc* makes it possible to give support to a Minister, belonging to a minority community, who might not otherwise find it easy to maintain his position in the Cabinet. Whatever the theoretical attractions of advance towards a more responsible form of government, it is doubtful if such advance would commend itself to the minority communities, if it were felt that there was no guarantee that they would have a representative in the Administrative Body. It must be realised that the Hindus and Sikhs, if inferior in population, nevertheless constitute minorities so strong as to give justification to their claim that a Government in which they are not represented would fail to satisfy the condition of government by general consent."

These remarks are no doubt intended to apply to minorities on the basis of religion and not to non-agricultural minorities on the basis of caste, which form half the population of the Province; but they apply, *mutatis mutandis*, to the non-agricultural minority in the Council. There is only a brief reference to the bearing of the Land Alienation Act on the politics of the Punjab, to which reference has been made in paragraph 4 of Volume II of the official Memorandum.

That the exclusion from the Cabinet of all those who do not subscribe to the programme of the Unionist party is aimed at by the members of this party is fully proved by reference to the remarks made at pages 6-7, paragraphs (*d*) and (*e*) of the Memorandum presented by the Unionist party. In the estimation of this party, the ideal Ministry formed during the last seven years

was the Ministry of the second Council, which consisted, including the member of the Executive Council, of three persons, all members of the agricultural tribes.

Ch. Chhotu Ram's answers to questions put by the Chairman show that he aims at the exclusion of all members of the non-agricultural tribes. He emphasises the necessity of joint responsibility of the Cabinet in the following words :—

> " The third point to which I would draw your attention is the subject of joint responsibility. The Ministers should have a collective responsibility to the House and not individual responsibility to their various parties as has been the practice so far." See page 19 of the evidence taken on Tuesday, 6th November, 1928.

(6) At page 26 of the Memorandum, I said that but for various reasons the measure (Land Alienation Act) is considered to be a pro-Muhammadan measure. Sixty per cent. of the total Muhammadan population are notified as agricultural tribes. Out of 36 members of the Unionist party (see paragraph 1 of the Memorandum of the Unionist party) only five are Hindus and one Sikh, see R. S. Ch. Chhotu Ram's answer to question No. 54.

In Volume II of the Memorandum submitted by Government containing constructive proposals for the extension of reforms there is no clear reference to the existence of a rural party in the Council or to its numerical strength. It is stated in the Memorandum that the main line of division is communal and will remain communal, meaning thereby, I believe, that the warp and the woof of the rural party is also communal in character, the rural party being mainly Muhammadan and the urban party being mainly Hindu, the Muslim members belonging to urban classes being drawn to the rural *bloc* owing to the moral force exercised by the communal strength of the Muhammadan majority. The Muhammadans in the Council, therefore, owing to a circumstance altogether adventitious, derive strength which cannot be justified on sound canons of representation and hence the support given by them as a whole to the Land Alienation Act on grounds really political but ostensibly economic. The Muslim party in the Council derives immense strength from the Act which is possible in no other way. The non-Muslim members of the party acquire a Muslim complex, which alienates them altogether from their co-religionists. In this connection a reference may be made to the remarks made by Pandit Nanak Chand in the first few lines of page 13 in his Memorandum, Part I, also to Major Venrenon's answers to questions Nos. 104-107 which show that he found it difficult to substantiate the non-communal character of his party, when he said that on one communal issue whether the representation given to the minorities in the Punjab should equal that of the

majority community, he was unable to get a unanimous decision from his Association.

The Hindu opinion all over the country is in favour of joint electorates. The Muslim community supports separate electorates. On this important question on which there is a clear division between Hindus and Muhammadans, the National Unionist Party is inclined to the Muhammadan view, see page 3. paragraph 7, of the Memorandum, also page 12, part XI of the Memorandum submitted by the Punjab Zamindars Association headed by Major Vanrenen. In this connection please see remarks under Part B of this note.

(7) At the end of page 32 of my Memorandum, I have shown that members belonging to agricultural tribes form 71 per cent. of the elected members of the Council. The proportions given by me are admitted in paragraph 4 of Chapter I of Volume I of the Memorandum prepared by the Punjab Government. In paragraph 30 of Chapter II of the Government Memorandum it is suggested that the disproportion would to some degree be relaxed if the tenants of agricultural land were enfranchised. The difference, however, would be slight (please see answers given by Mr. Miles Irving to questions Nos. 143-152 at the forenoon sitting and to questions Nos. 1-10 at the afternoon sitting). I may here quote in support of this view that proposals made with regard to the extension of franchise by local Government in Volume II of their Memorandum will not materially alter the constitution of the Council. The following passage from the concluding portions of paragraph 6, page 38, is pertinent :—

> " In themselves they are not calculated to have any marked effect on the constitution of the legislature; neither will the class of persons newly franchised differ in any noticeable degree from those who at present possess a vote, nor is it likely that the extension of the franchise will have any effect on the class of candidates elected, though they may affect the volume of representation of various communities."

(8) At pages 25-26 of my Memorandum I have given figures as to Hindu, Sikh and Muslim agricultural tribes. The majority of the Hindus are non-agricultural tribes. Amongst Muslims and Sikhs a smaller proportion belongs to non-agricultural tribes. The remarks made by me in the last paragraph on page 30 of the Memorandum may be perused. My supplementary Note No. II embodies a representation from the Retired Military Officers belonging to Muslim non-agricultural tribes, who complain of the iniquitous nature of the Land Alienation Act

I now invite the attention of the Joint Conference to E.-Pun-415 of the Memorandum submitted by Ramgarhia

Central Board in which this body of Sikhs complains in the following words :—

> " So long as the Alienation of Lands Act is allowed to stand on the Statute Book, we are classed as non-agriculturists and our right of vote is likely to be denied to us for all time."

Attention is also drawn to the Memorial submitted by the Sikh depressed community of the Punjab E.-Pun-305, page 3, paragraph 6, in which the following sentence occurs :—

> " And we may be given the right of purchasing land in every part of the province, for most of our people live on agriculture, which is the chief vocation of the Punjabees."

This memorial purports to be from " representatives of the Sikh community of retired civilians in general and military men in particular, which is unfortunately called by the hateful name of untouchable Sikhs. Its population is about seven lakhs in the British Punjab." The Sikh and Muhammadan non-agriculturists fret under the disabilities which the Act imposes on them, though both in the Council and outside of it they dare not give utterance to their resentment.

B—RIGHTS OF MINORITIES.

In volume II of the Memorandum prepared by the Punjab Government the necessity of protecting the interest of communal minorities has been adverted to in more than one place, and the necessity of their adequate protection has been described to be one of the principal obstacles in the way of further devolution of political power to the people. Reference is made only to credal minorities, viz., the Hindus and the Sikhs. Nothing is said about the non-agricultural minority which is presumably due to the fact that the underlying basis of the rural and urban parties is also communal. In 1924, when an enquiry committee presided over by Sir Alexander Muddiman was sitting, the idea uppermost in the mind of one of the prominent officials of the Punjab Government, Sir John Maynard, was that the parties in the Council were formed not on communal but on economic lines. The questions and answers given in Appendix II, page 106, of my Memorandum are so interesting that they would bear reproduction here.

Page 292 of Volume II of oral evidence before the Reforms Enquiry Committee.

Q.—With regard to what you say in paragraph 31, I take it that your view, Sir John, speaking generally, is that the distinction is more between rural and urban than between Hindu and Muhammadan as regards council voting?

A.—That is so far as the proceedings in the Council go. It is undoubtedly more a division now of the rural and urban than communal.

Q.—That is rather interesting. We have been told. that the feeling between Hindu and Muhammadan is so strong that that division has replaced every other division, but that is not your view?

A.—I hope I have not been misunderstood. I am speaking of the proceedings in the Council.

. Page 396 of Volume II of Oral Evidence before the Reforms Committee.

(Sir Muhammad Shafi.) *Q.*—In so far as your Council is concerned, the Swaraj Party consists of a very small number?

A.—Yes.

(Sir Muhammad Shafi.) *Q.*—Only about 7 or 8 I believe?

A.—That is all.

(Sir Muhammad Shafi.) *Q.*—So that the wrecking element in the new Council is very small?

A.—That is not quite true, because the Swaraj Party has connected with it a certain number of Urban Hindus, a certain number of Khilafat Muhammadans and almost the whole of the Sikh party.

Pages 311 and 312 of Volume II of Oral Evidence.

Q.—Do you know that even the Punjab Government considers that the present constitution of the Punjab Government is practically based on a communal basis? There is one Sikh, one Muhammadan and one Hindu and these appointments have been made from that consideration.

A.—That was the case very markedly in the first Council. The first appointments were made very markedly on that ground, that is to say, that one must be Hindu, one a Muhammadan and one Sikh. But at present it is rather different. The distribution is the same but the basis is really different. The principle has been that the two Ministers both represent the rural majority. It is true that one is Muhammadan and one is Hindu, but the majority is a rural majority and except where particular communal considerations are uppermost the line of division is the rural-urban division.

Q.—You said, I think in reply to the Chairman, that the present feature of the political situation was that inside the Council the cleavage was between rural and urban members?

A.—Yes, I have tried to make it plain that these are cases in which they do not vote communally. The leading division at all events at the present time is rural-urban rather than Hindu-Muhammadan.

Q.—Do you expect in the near future or in the next few years this feature to develop in the Punjab?

A.—Yes.

Q.—Or do you think the development of the parties will be on communal lines?

A.—Well, as far as I am able to forecast the situation (of course it is a very difficult thing to do) I am inclined to think that there is a permanency about this rural-urban division.

There is a real division of interest on those lines, a natural division of economic interests which I think makes it a natural line of division. I can imagine the possibility in the future of its taking an even more permanent place than it takes now.

Q.—I suppose the extent to which it promises to be a permanent feature in future, you as a member of the Government have every reason to be satisfied?

A.—I feel it is a wholesome and natural line of division.

(Sir Muhammad Shafi.) *Q.*—As a basis for a party system it is natural?

A.—Yes, that is really what I meant, it is natural in the sense of being grounded on real distinction of interests.

A comparison of the above with the description now given by the Local Government of the parties, which are said to be mainly communal, leads to the following conclusions.

1. That rural and urban and communal parties are convertible terms.

2. That it is in the discretion of the executive to adopt any line of cleavage whether communal or rural and urban.

3. That there is an urban minority represented by Hindus and Sikhs from which the Muhammadan members belonging to urban areas keep aloof for fear of communal majority on the rural side, and that this minority is much smaller than the Hindu minority on communal basis. I will deal further on with each kind of minority, viz., non-Muslim urban minority and communal minority. But, before doing so, I wish to offer some remarks on the expedients proposed by Government for safeguarding the interest of minorities. These are two :—(1) The retention of an official member in the Cabinet as a representative of minorities. (2) The insertion of a clause in the Instrument of Instructions to the Governor enjoining upon him the duty of safeguarding the interest of minorities. I consider both these safeguards to be not only inadequate, but perfectly useless. I will discuss under another section the desirability of having an official member. But unless he himself belongs to the minority community which he is supposed to represent, he will by no means be a proper custodian of the interest of that minority community. Nothing will, however, be gained by inserting a clause about the protection of minorities as proposed. On the contrary, I fear that the insertion of the clause as suggested in concluding part of paragraph 30, page 18, may lead to the differential treatment of minorities in different provinces as is sometimes actually the case now. " Essential protection of minorities " is a vague phrase and may be differently interpreted by Governors in different provinces, unless an instrument of instructions is issued to the Viceroy as well, and he is given the power of co-ordinating minority rights in different provinces. A provision such as that proposed may do more harm than good. It may create or aggravate communal rivalries and jealousies and thereby retard further political advancement. Paragraph 7

of the Instrument of Instructions as it stands is comprehensively worded and might have been utilised for the purpose of protecting the interest of minorities if the Governor had been so inclined. I invite special attention to the concluding portion of clause 2 of paragraph 7 and to clause 3 of the same specially to the following words occurring in it :—

> " To see that no order of your Government . . . . shall be so framed that any of the diverse interest of or arising from . . . . religion, education, etc. . . . . may receive unfair advantages or may unfairly be deprived of privileges and advantages which they have heretofore enjoyed . . . ."

I give the following illustrations of my sad experiences of vain attempts made to invoke the help of clauses in the Instrument of Instructions or of rules under the Government of India Act for protection of minority interests.

1. In August, 1922, a Memorial was submitted signed by 26 Hindu and Sikh members of the Council in which certain prayers were made based upon certain passages in the Instrument of Instructions.

Inter alia the Memorial asked for the appointment of a committee (so constituted that no community on it be allowed to predominate) in order to examine all the promotions that had been made in the Education Department, against which there were loud complaints of communal bias in the Press. This prayer was not granted. I quote a part of the letter received from the Chief Secretary. It runs as follows :—

> " That while under the Instrument to which you refer it is the duty of the Governor to protect all interests from unfair treatment, it is also his duty under the same instrument to secure the advancement of classes which are educationally or otherwise in a backward condition. It may not be always easy to reconcile these two duties, but in the two orders mentioned by you there appears to His Excellency to be nothing to necessitate his departing from the ordinary principles regulating the constitutional relations of the Governor to a Minister who has the support of the Legislative Council."

(2) Paragraph 231 of the report on Indian Constitutional Reforms ends with the following sentence :—

> " But we can see no reason to set up communal representation for Muhammadans in any province where they form a majority of the voters."

The first two sentences of this paragraph also bear quotation :—

> " We regard any system of communal electorates, therefore, as a very serious hindrance to the development of the self-governing principle. The evils of any extension of the system are plain."

In spite of general principles so clearly laid down, the proportion of Muhammadan members in the Municipal Committees of Lahore and Ambala was largely increased, whilst in the electorate, the number of Muslim voters far exceeds the number of non-Muslim voters; and separate electorates are maintained. In these Committees therefore, there is a reservation of seats for Muhammadans approximating to their proportion in the population, and far in excess of the number reserved for other minorities, there are separate electorates for them, whilst in the electorates also, Muhammadan voters predominate. The Hindus boycotted the Municipal Committees in both places and remained out of them for several years. His Excellency the Governor did nothing to vary the proportions, presumably on the ground that there was not sufficient reason for interfering with the Ministers' policy in a transferred department.

3. Under Rule 2 of the Reservation of Bills Rules, Bills, which affect the religion or religious rites, of any class of British subjects, in British India, must be reserved for the consent of the Governor-General in India. The Gurdwara Act affects the religious rites of a minority of the Sikh population. My minute of dissent as a member of the Select Committee, and that of Dr. Narang, may with advantage be perused. Neither the Governor nor the Governor-General paid any heed to the interest of the minority, in spite of the specific provision in the Reservation of Bills Rules. Dr. Narang and I had both to support the Bill at its final stage in the Council.

All this happened under the dyarchic system of government, with the official *bloc* in the Council. What hopes can the minorities have, from safeguards of the kind proposed, when full provincial autonomy is given, and the official *bloc* disappears. The only course left to a minority community is to select some substantial civic rights, and to ask for protection in respect of them, by the insertion of a clause which will prevent their invasion beyond certain limits, so that when those limits are exceeded, the minority may be able to challenge the order or the Act before a judicial tribunal. The religious minorities in the Punjab, for which the Punjab Government has shown so much solicitude, and the existence of which has been dilated upon as an obstacle in the way of further advance, are a creation of circumstances altogether factitious, which can be easily avoided if sound canons of representation were adopted and if the principle of determination of civic rights on the basis of caste and creed incompatible with any system of democratic government were condemned.

C—JOINT OR SEPARATE ELECTORATES.

Before dealing with the proposals of the Punjab Government with regard to Joint or Separate Electorates, I should like to quote from the official Memorandum all the passages showing the evils of separate Communal electorates.

Page 3, paragraph 5.

"As regards the electorate at large, it would hardly be reasonable to expect that at this stage it should show itself cognisant of general questions of policy or prepared to exercise its discrimination between candidates with reference to their advocacy of a definite political programme. The predominant line of cleavage in the Province is Communal and the system of communal representation practically results in removing from consideration one important subject on which the candidate could make an appeal to the feelings or the interest of the elector."

Last sentence of paragraph 5.

"Wherever representative institutions have been introduced the elector has probably directed himself at first to a choice between personalities rather than between politics, the advance to a further stage must depend not only on the progress of education but on development of political programmes and the organisation of parties."

To which I add; and this can be easily done in a Province, in which the Muslim and non-Muslim communities are nearly equally balanced, and in which the minorities having condemned communal electorates, can appreciably influence the election of members of the majority community, and *vice versa*.

Paragraph 7, page 5.

"Again it" (council) "has often been prone to pay more attention to communal considerations, than to the merits of the matter at issue, and on many occasions the vote appears to have been unduly swayed by personal alliances or prejudices."

Further on in the same paragraph.

"The features of the working of the Council which may legitimately give rise to apprehension are first its attitude on points where communal interests are at stake, and secondly the difficulty which Ministers have at times experienced in knowing whether they can depend on their party for the support on which they might legitimately have counted. As the description matter has shown, we have in the last eight years seen some beginnings of organisation on party basis; but the predominant line of division is still communal and other considerations are apt to be subordinated to those which rest on a communal basis. So long as the strength of this line of cleavage continues, large issues of general importance are likely to be decided less on a consideration of their effect on the province at large than on a calculation of their possible reaction on different communities."

Page 6, paragraph 8.

"Taking first the branches of work concerned with law and order, attention must inevitably be attracted to the

prevalence of communal dissension during part of the seven years period and to its consequences in the outbreak of open disorder. Our discussions on the subject have revealed a difference of opinion as to the degree of importance to be attached to these events, and their possible bearing on the life of the province in the future. **But it is not open to doubt that much of the intensity has been due, directly or indirectly, to operation of the Reforms Scheme, and it is certainly a pertinent question whether, on the one hand a constitutional change placing the executive further under the control of popular representatives, would not accentuate the tendencies in the formation of which the Reforms Scheme has already assisted,* or whether, in the alternative, the grant of greater authority to popular representatives, and the consequent growth among them of a greater sense of responsibility would not result in giving them both a desire and a power to improve the relations between the communities. That will perhaps remain a point of controversy; and it is only legitimate here to remark that at the moment there are many personages occupying positions of importance in communal affairs who have not shared in the work of the legislative council, and that the elected representatives have by no means a decisive influence in communal politics."

The Punjab Government deplores the existence of communal feeling in the council and outside the council, and is inclined to the view that communal tension has been accentuated by the Reforms. The Punjab Government seems to long for the day when it will be possible to form in the Punjab parties on political lines. Then and then alone the conditions requisite for the support in office of a party government " in the Parliamentary sense will be fulfilled." But it fails to propose the only system of election under which can be returned as many Muslims responsible to non-Muslims as non-Muslims responsible to Muslims, or under which " persons occupying positions of importance in communal affairs and who have not shared in the work of the Legislative Council," presumably because they have a broader outlook on communal matters, can be returned. The Punjab Government is of opinion that " the electorate at the moment thinks and acts communally, and whatever system of electoral machinery may be adopted, its communal composition will reproduce itself in its representatives and will on most occasions be the guiding factor in deciding their votes in the Council " (paragraph 17, page 12). Again on page 13, " The dominating factor is not the system by which members are returned to the Legislature, but the existence of actual communal cleavage in it. Being, therefore, faced by a system of Government which differs materially from representative Government in the sense

* The italics are mine.

in which it is now understood in the United Kingdom, it is clear that checks must be imposed to prevent it becoming merely a mask behind which is enthroned a permanent majority of a communal colour." I do not agree with the view that the communal outlook of the Council will remain the same, whatever be the system of electoral machinery. The greater the recognition given to communal differences, the more pronounced and pointed they become.

I cannot too strongly emphasise, even at the risk of repetition the peculiar features of politics in the Punjab Council. There are two important minorities instead of only one, as in other provinces. The Muslim and the non-Muslim parties are equally balanced. There is an Act which enables shrewd politicians to form communal parties under a cloak other than communal. It is discretionary with the head of the Executive to take any line of cleavage whether of caste or creed both unalterable in character and obstacles in the way of the formation of parties on political lines. As long as these conditions continue in the Punjab, the responsibility of the Executive to the Legislature is unreal. If, therefore, in pursuance of the declaration of 20th August, 1917, the British Parliament really means to take further steps in advancing responsible Government in India, it should do it in a manner which gives reality to the advance made. Apart, therefore, from a desire to be placed on an equal footing with others in respect of the acquisition of important civic rights, my party rightly puts forward certain indispensable conditions for further steps in political advance, without which the party thinks, there is no real advance in responsible Government. It is therefore very strange indeed that the Local Government in their Memorandum makes no reference to the L.A. Act as a disturbing factor in the working of parliamentary Government, and opposes a change in the system of electorate, which can be easily introduced, a change which alone will facilitate the introduction of a parliamentary system of Government.

It opposes the introduction of Joint electorates on three grounds: (1) Communities will come into conflict in course of election, (2) that in some constituencies there will be eight or 10 candidates, (3) that the Muslim community attaches great importance to separate electorates, and that it is undesirable to introduce a system of election which will cause dissatisfaction in 55 per cent. of the population. Open elections are held for District Boards without causing any trouble (see Mr. Beazley's statement answers to questions Nos. 239-242). For the new seats thrown open to the Council, Government have proposed open election without reservation as an alternative. I consider reservation of seats for communities to be necessary, open election without reservation is apt to lead to communal troubles, which the Punjab Government is so anxious to avoid, that it does not advocate joint electorates for all seats even with reservation. There

is no insuperable difficulty in managing elections in constituencies with eight or 10 candidates.

With regard to the argument that separate electorates are considered by the Muhammadan community as their special privilege and that their being replaced by joint electorates will cause dissatisfaction amongst them, I fail to see why no weight is attached to the dissatisfaction amongst 45 per cent. of the population who want joint electorates. The Hindus who form 32 per cent. of the population have gone so far as to say that they would have no further extension of reforms, if separate electorates were retained. There are amongst all communities including Muhammadan, adherents of the Congress creed which condemns communal representation in every shape or form. According to the statement of Malik Firoz Khan Noon (pages 3-5 of his Memorandum) the non-Muslim communities are better organised, have a wider press under their control, and have better command of capital. Discontent amongst them, in spite of their inferiority in numbers, should be given as much weight as discontent amongst 55 per cent. of the population, specially if separate electorates are maintained at the request of the other community in provinces, like United Province, Central Province and Bihar where the community constitutes only 14, 4 and 10 per cent. of the population respectively. Separate electorates in the Punjab if retained, will be retained for ever. The longer they continue the more difficult will be their removal and the greater will be the discontent of the Muslim community when they are removed. If, therefore, responsible Government in the Parliamentary sense is not possible where parties are formed on communal lines, responsible Government in the Punjab will become impossible for ever.

I invite the attention of the Conference to the two statements submitted by me (E.-P.-175) one showing the number of Muslim and non-Muslim voters in the existing constituencies and the other Muslim and non-Muslim population in those constituencies. There are 33 constituencies in which the number of non-Muslim (Hindu and Sikh) voters predominates, while there are 26 in which Muslim voters predominate. The second statement shows 37 constituencies in which the Muhammadan population exceeds the non-Muhammadan (Hindu and Sikh) population, while there are 27 constituencies in which the non-Muslim population is greater than that of the Muslim. The extension of franchise will considerably lessen the disparity that there is between Muslim and non-Muslim voters. But the figures given in Statement E prepared by the Punjab Government (E.-Pun-80) which gives a list of voters by districts show that there are six districts in which non-Muhammadan (Hindu and others) voters predominate and four in which the Sikhs predominate, whilst there are 13 in which the Muhammadan voters predominate. Two districts are described as probably non-Muhammadan and one probably Sikh. Therefore, adding probably non-Muhammadan and probably

Sikh district to non-Muhammadan districts, the number of Muhammadan districts equals the number of the non-Muhammadan districts, including in the term non-Muhammadan Sikh districts. The four doubtful districts may be divided equally between the two communities. Muhammadans have therefore nothing to lose by joint electorates. Separate electorates give them an advantage, which is unfair, of splitting up the non-Muhammadan population into two parts. My Moslem fellow countrymen know that the election of one of these communities (the Sikhs) has been controlled largely by a single organised association called the Gurdwara Prabhandhak Committee which has so far sent nominees with a mandate that they should not accept office. The majority of the Sikh members, therefore, cannot be utilised by any politicians for any constructive work. The Muslim members are left, therefore, the sole masters of the field, and it is the desire to retain this advantage which makes them insist on separate electorates in the Punjab. Hindus and Sikhs want joint electorates as separate electorates deprive them of their legitimate share in the Council and gives undue weight and importance to the Muhammadans. I am, however, glad that Sir Muhammad Shafi, the leader of the Muslim deputation, though insisting on separate electorates, did not make their retention an indispensable condition of further advance. He ridiculed the position taken up by the Hindu deputation inasmuch as that deputation made joint electorates an essential condition of further advance. But Sir Muhammad did not know that the deputation of 30 Muslims of the United Provinces made the retention of separate electorates with many other things an essention condition of the extension of reforms.

D—THE CLAUSE.

In my Supplementary Note No. III, I submitted the draft of a clause which only amplifies the scope of section 96 of the Government of India Act. Though I would much prefer if the draft clause proposed at pages 59-64 of my Memorandum covering the whole gamut of civic rights were adopted, yet in the proceedings of the Conference as reported by the press I have read so much about the difficulties of inserting clauses of this kind that I decided to select certain important civic rights in respect of which discrimination on the basis of caste and of creed should be condemned by the constitution. The former draft would make separate electorates for a majority community illegal, but I think that the question of joint or separate electorates for the Assembly or the Council of State or for Provincial Councils may be dealt with as a question distinct in itself and not part of a constitutional clause. The present clause will not make separate electorates illegal for a community, even when it has a majority of voters in the electorate of local bodies. But the whole question of local self-Government may also be left for separate consideration.

I however propose a small addition to the clause at the end. I would add the following words :—

" and not specially meant for any particular class or community."

The enquiries made by the Educational Committee show that there are separate educational institutions for Hindus and Muhammadans called Pathshalas, Maktabs and Madrasas financed by Government, in which religious education is given with secular education, and the whole atmosphere of which is more in consonance with the old traditions of the Hindu and Muhammadan communities respectively, than of public schools. Ordinarily no Muhammadan seeks admission into a Pathshala and no Hindu claims a seat in a Maktab or a Madrasa : but at times the relations between the communities at certain places become so strained that Hindus and Muhammadans, out of sheer love of mischief, may claim admission into these special institutions designed for the other community, and reservation may thus become necessary.

I reproduce the draft clause in the final shape which I wish to give it.

SECTION 96 AMPLIFIED.

" No native of British India, nor any subject of His Majesty resident therein, shall by reason only of his religion, place of birth, descent, colour or caste, or any of them be disabled from, or prejudiced for the purpose of holding, or being recruited for holding, any office or post paid out of public funds (funds in the hands of the central or the Provincial Government or local bodies), adopting any profession, trade or calling, or engaging in any industry, or acquiring right, title or interest in any property, or finding admission to any educational institution, supported out of funds in the hands of the Central or the Provincial Government or a local body, and not specially meant for a particular class or community.

" Orders or Acts in contravention of this section now in force are void.

" This section is subject to rules which Provincial Governments may make restricting the recruitment to Provincial and Subordinate services to persons domiciled in the province and determining for the purpose thereof what constitutes domicile.

" The section is further subject to the Schedule No."

In this schedule may be given the reservation for recruitment to various services, to suit backward classes and to redress communal inequalities. Reservations may be allowed for recruitment but not for promotion after recruitment. The proportion to be reserved should be fixed in the schedule and should not be left to the discretion of local governments.

If it is desired to vary the reserved proportions for various grades of services, the classification for such variation in case of services under the local bodies may be left in the hands of local governments; for classification under local bodies and the nomenclature of services under them is different from the classification and nomenclature of services controlled by the provincial or central government.

As samples of a protective clause I give below part of Article 39 out of the treaty with Turkey signed at Lausanne, in which the Turkish Government undertook to protect the interest of non-Muslim minorities :—

> "Difference of religion, creed or profession, shall not prejudice any Turkish national in matters relating to the enjoyment of civic or political rights, as, for instance, admission to public employments, functions and honours, or the exercise of professions and industries."

Will not my Muhammadan fellow countrymen with whom a few Hindu agricultural tribes are in league, follow the example of the Turkish Government which once as a Caliphate guided the whole Muslim world? I also quote Article 80 of the German-Polish Convention of 15th May, 1922.

> " Nationals belonging to minorities shall be treated on the same footing as other nationals as regards the exercise of agricultural, commercial or industrial callings or any other calling. They shall only be subject to the provisions in force applied to other nationals."

These clauses are no doubt enforceable by the League of Nations while a clause of the kind in our constitution will be enforced by our Law Courts.

In my Supplementary Note No. III, I referred to part XI of the Government of India Act, and promised to give its history I now invite special attention of the Conference to two clauses in section 124, " If he oppresses any British Subject," and " if he wilfully neglects to execute any order," [Section 124 (1) and (2)]. These words would have proved a prolific source of litigation but have in fact not so proved. The penalty for oppressing a British subject and for wilfully neglecting to execute an order is serious. The officer is liable to prosecution in His Majesty's High Courts of Justice in London and in India. He is liable to deportation under section 129. Frivolous complaints are possible.

The Diwani of Bengal was obtained by the East India Company in 1765, and in 1770 (10 Geo. 3, C. 47) was passed an Act " for better regulating persons employed in the service of the East India Company, and for other purposes therein mentioned." In section 4 of this Act occur the following words :—

> " Be guilty of oppressing any of His Majesty's subjects beyond the seas within their respective jurisdictions."

" Wilful neglect of order or disobedience of order, the burden of proving the necessity of which shall be on the officer " is

another inconvenient phrase. The words occur for the first time in section 65 of the East India Company Act, 1793 (33 Geo. 3, C. 52). This Act was passed at one of the renewals of the charter of the East India Company. Surely within the last 158 years in the one case, and 138 years in the other, the art of statutory interpretation has well advanced and the framers of constitutions are better cognisant of the necessity of formulating general constitutional principles for guidance than they were in the 18th century.

Section 96 of the Government of India Act of 1919 which should now be amplified is in substance the same as section 87 of the Act of 1833, when the Indian Civil Service was first instituted. To the principle enunciated in this section, Lord Macaulay made some reference in his speech delivered in the House of Commons on 10th July, 1833.

This brief survey of the constitutional history of India will show that at each new important epoch the British Parliament has enunciated a general principle for the guidance of its administrators. There is no reason why this salutary practice should be departed from now that we are on the eve of an era more important than any that has preceded.

The necessity of adding a few words about admission to educational institutions was felt by me in course of the enquiry in which I took part as a member of the Education Committee. In many provinces there is a wide network of communalism in educational institutions.

In Bengal, places are reserved for Muslim students in Government Colleges, in aided colleges and in 35 Zilla and Government High Schools, out of which in 17 schools percentage varies from 50 to 75. On reference to page 58 of the confidential memorandum on the progress of Education between 1916 and 1926, I find that the change was introduced during 1921-26 under the regimé introduced by the Reform Scheme.

In the Bombay presidency specially in Sindh, reservation of seats in schools exists for (1) Advanced Hindus, (2) Intermediate Hindus, (3) Muhammadans and (4) Backward Hindus. By resolution No. 3464, dated 30th March, 1925, for the High Schools of Nowshera Madrasa, the reservations are Muhammadans 75 per cent. and Hindus 25 per cent. I do not know how the Bombay Government reconciles itself to the idea that the Education of the country as a whole is advanced by calling upon the advanced classes to retard or stop their education till the backward classes come up to their level.

In the Government of India Act of 1919 there is reference to communal representation only in one place, viz., in section 72-A (4) (*c*) which provides for the framing of rules allowing election by communal electorates. The framers of the Reforms Scheme never intended to widen the scope of communal representation. If the first step towards responsible government has led to the introduction of communal representation to spheres

other than representation in the Councils, it is high time to check it. The preamble of the Act embodies the substance of the declaration of 1917 which is progressive realisation of responsible government by " successive stages." Each stage should bring us nearer to the realisation of the ideal, and not throw additional difficulties in our way and put us further and further away from the goal. If it does so it hardly deserves the name of being a stage in the progress. There are many other ways of encouraging education amongst backward classes. Resort to a method which is condemned in clear words by the Montford Report (paragraph 231), a method which is apt to be considered as an infringement of the declaration of 1917, should be avoided, specially when reservations once created are apt to become permanent.

I presume that the policy of reservations of seats in schools was introduced by the Reformed Councils. But even if the Bureaucratic rule initiated the policy, it should have been stopped, after the declaration by the British Parliament that India was to be taken through successive stages, to the goal of complete responsible government. On the contrary, Ministers apparently to serve their political ends, extended the policy and widened the scope of communal representation, hardly realising that they were going against the spirit of the declaration, which is held to be sacrosanct.

Establishment of popular government in every country is accompanied by a declaration of the rights of citizens. Where a country is inhabited by people professing different religions and belonging to different races, that declaration should guarantee equality of rights of all citizens. The report of the Nehru Committee, which places before us an ideal democratic polity gives us also an ideal plan of the fundamental rights of citizens. (See Section 4, pages 101-103 of the report.)

With regard to the services, I propose to embody in the constitution a sound principle of recruitment making ample provision to prevent monopolies by particular castes or creeds—a principle on which Government already professes to act. A perusal of the proceedings of the Punjab Council, dated 20th, 21st and 26th March, 1929, will show how necessary it is to do so. But there are other reasons besides which necessitate the enunciation of the principle.

In volume II, page 6, paragraph 9, of the Memorandum of the local Government, observations have been made with regard to the deterioration of the working of local bodies owing to the existence of communal feeling. The following passage from that part may be quoted :—

> " It is possible that the complaints of deterioration are in part a result of the fact that communal difficulties in the principal local bodies have of late years begun to attract increased attention. One definite result must, however, be attributed to the Reforms Scheme. There is undoubtedly a

feeling in many of the provincial services that communal considerations are now allowed far more weight than before, not only in the matter of recruitment; but in departmental judgment affecting their conduct and capacity."

Questions such as lighting and cleaning of streets, water-supply and other sanitary measures of the kind with which local bodies deal, furnish no occasion for the display of communal feeling, which centres mainly round making of appointments, and disciplinary action taken against delinquent officials. It is, therefore, absolutely necessary that recruitment of services under local bodies should be regulated in the same way as recruitment for other services. Communal controversies and consequent deterioration of work will disappear if the power of making appointments is taken away from them and is vested in a body either independent of them or in a body nominated by them, but so constituted that no community in it predominates. If the clause, as suggested, is inserted, local bodies can be compelled to take action which will save them from being accused of communal bias in law courts. There seems to be no other way of overriding the Acts which have already delegated to local bodies the power of making appointments.

It is in my opinion absolutely necessary that in filling all appointments, high or low, one uniform principle should be observed. The recruitment for appointments carrying small salaries called Ministerial appointments may be made by selection, committees appointed either by the Provincial Public Services Commission or by local governments.

Jurisdiction to hear cases arising out of the violation of the terms of the clause may be conferred on High Courts only, on the analogy of Section 128 of the present Government of India Act. Hasty recourse to Courts may be prevented by empowering Courts to award heavy damages in case the suit fails, or by requiring plaintiff to deposit large sums for reimbursement of costs.

E—LINES OF ADVANCE.

Before offering remarks under this head I wish to emphasise that I adhere to the conditions laid down in Clauses 1-5 at pages 79-80 of my Memorandum submitted in May last. I also wish to point out that so far as the Security services are concerned, Clause 5, given by me, is supported both by Government and the unofficial members.

I confine myself in this section to a consideration of the proposals of the official and unofficial members (Honourable Sir Fazl-i-Husain and Honourable Malik Firoz Khan Noon, of the Punjab Government). The main scheme put forward by the official members, being acceptable to the unofficial members, it is to be seen how far their criticism of certain parts of it is justified.

So far as the responsibility of the executive to the legislature is concerned, there is no doubt that the official scheme does not

come up to the expectation of the advanced politicians; but the Governor's power of certification in respect of legislation and grants pertaining to matters bearing on the tranquillity of the Province being allowed, is there any ground for criticism of the other features of the scheme?

It may, however, be mentioned that the Congress Scheme of advance should be taken as a whole. Joint electorates and a clause defining fundamental rights of citizenship are corner stones of the fabric which the advanced politicians erect. Neither the Government proposals, nor the unofficial members make any reference to a clause defining the fundamental rights of a citizen in a country inhabited by such diverse races and creeds as India. In nearly all the countries whose constitutions have been framed after the war, and whose population shows similar diversity of race and religion, such clauses have been inserted. It is unreasonable to condemn official proposals on the ground that they fall short of the expectations of advanced politicians, if the unofficial members themselves show a contemptuous disregard of the advanced school about the system of electorate and the rights of citizenship.

If the proposals made by the other local Governments had been accessible to the members of our provincial committee, if we had known how other local Governments had solved the problem of necessary safeguards, or if it were known to what extent it was contemplated to introduce the element of responsibility of the executive to the legislature in the Central Government, it might have been possible to suggest a line of advance in the Punjab less open to objection by the advanced politicians; but as the memoranda of other local Governments, and of Government of India, are not before me, I have to confine myself to the narrow issue stated at the outset. It would tend to a clear understanding of the proposals of the Government if certain basic ideas on which the recommendations of the local Government are founded were stated.

1. It seems to be unlikely that the Army will be transferred in the near future to the control of the Central legislature. If the Central Government is not responsible to the legislature for the Army, to whom is it responsible? The obvious answer is, to the British Parliament.

2. The official and the unofficial members of the Punjab Government are unanimous that recruitment for what are called Security services should continue to be made in England, through the Secretary of State. The ultimate authority in whom is vested the supervision and control of these services is the Secretary of State, who is subordinate to Parliament and not to the local or central legislature.

3. In paragraph 18, page 13, volume II, of the Official Memorandum, a number of points are given in respect of which the functions of the Central Government impinge on those of the

Provincial. These relate to matters in respect of which the Central Government cannot divest itself of its authority or its power of supervision. I pick up out of the list only one point, and that the principal one. " The authority which holds in its hand " (the use of troops) " the ultimate sanction for the preservation of order cannot be denied a power of supervision over matters which may render its intervention necessary."

In whom is that power of supervision vested? Not in the Minister, for he is responsible to the legislature and cannot be Agent of the Central Government, or responsible to it, but in the Governor.

I may here mention that to treat Security departments as a central subject is not one of the alternatives proposed in the official memorandum for consideration.

The Hindu deputation, led by Pandit Nanak Chand, M.L.C., proposed it, but whilst it is not practicable to divest the Governor of all share in the administration of the departments, their treatment as central subjects will deprive the Council of the right which it at present enjoys of voting grants for these departments, and of discussing its general policy. A step backward is not possible, and for this reason, the suggestion may be ruled out of consideration.

4. The adoption of certain safeguards is necessary for two reasons : (1) on account of communal conflict and tension, more pronounced in the Punjab than elsewhere, and (2) owing to partial or complete absence of a sense of responsibility amongst the members of Council and their inability to shake off the traditional belief, engendered by generations of bureaucratic rule, that the government of the country is a citadel in which they have no niche, a feeling which will subsist as long as the demands of the advanced politicians are not fully met. The acceptance of suggestions made by me, will put the communal question much to the background, but it will not be safe to assume that all communal conflict will totally disappear.

I now proceed to examine the proposals of Government and to offer my remarks.

Section 52 (3) should remain as it is. If all subjects are transferred, then the first five words will disappear.

All subjects should be transferred.
The official *bloc* should be removed. } I agree.

I have not clearly understood what is meant by the following :—

> " Parliament should clearly express by statute the extent to which it declines to divest itself of responsibility in matters within the provincial sphere." Page 18.

Under Section 19A the Secretary of State in Council may by rule regulate or restrict the exercise of power of superintendence, direction and control vested in the Secretary of State. Rules made in this behalf relating to subjects other than transferred

subjects, have to be laid before the Houses of Parliament. Notification No. 853G, dated 14th December, 1920, gives the rule framed under this section with regard to transferred subjects. Possibly what is wanted is that when all subjects are transferred those rules which divest the Secretary of State of powers of control and supervision should not operate in matters relating to (1) financial stability, (2) protection of minorities, and (3) safety and tranquillity of the Province. It has, however, not been suggested where the statutory provision should be inserted, and I am unable to suggest where it should be. The rules under Section 19A may be so altered as to insert the above. The unofficial members are inclined to the view that when all subjects are transferred there should be no distinction between one class of subjects and the other. Paragraphs 1 and 3 of this note give the reasons for differentiation.

I may here mention for the information of some of the members of the Joint Free Conference, who are not familiar with the Punjab conditions, that the term " country side " which has a glamour about it, and which has so often been used in the note of the Honourable Sir Fazl-i-Husain and the Honourable Malik Firoz Khan Noon, has a special denotation in the Punjab. It means a class of people in which a group of privileged castes form an overwhelming majority and in which the castes outside the group labour under a sense of humiliating disabilities.

The privileged castes constitute only half of the population of the Province, as has been pointed out more than once before.

LEGISLATIVE FIELD OF PART II OF THE OFFICIAL MEMORANDUM.

I agree to the change proposed in Section 72E, viz., substitution of the words " essential for maintaining safety, tranquillity and financial stability of the province " in place of words " essential for the discharge of the responsibility of the subject."

I agree to the existing powers of the Governor being retained, viz., to refuse assent [Section 81 (2)] to return for consideration Section 81A (1) to reserve sanction [Section 81A (1) and (2)] and to stop proceedings [Section 72D (4)]. It is proposed to embody in the statute the cases in which reservation is at present obligatory under the reservation of Bills Rules. It is not clearly stated whether the statute will provide that the Bill shall be reserved for consideration of the Governor-General or whether it would give power of veto to the Governor or the Governor-General. Probably it is intended that reservation for the consideration of the Governor-General in the cases mentioned should be provided for in the statute. This change will only give more prominence to reservation. It is desirable that matters covered by Clauses (*b*) to (*e*) of the rules should receive such prominence, but so far as Clause (*a*) of Rule 2 concerning the religion or religious rites of any class of His Majesty's subjects is concerned, I would leave the matter to be treated by Rules,

and would add another clause to Rule 3, embodying therein the purport of Rule 2 (*a*). I would place no further obstacles than exist at present in the way of social reform, which in the case of both Hindus and Muhammadans are closely connected with religion, nor in the case of religious reform itself. I would therefore treat matters falling under Rule 2 (*a*) as matters to be dealt by Rules.

Financial Field of Part II.

I agree in all that has been said in paragraphs 33-38.

Method of Control.

There are two points in the Government proposals which need examination, (1) that an official whose portfolio has not been specified should be a member of the Cabinet with a right to vote, and (2) that the Governor should preside at the Cabinet meetings. The unofficial members of Government are opposed to both. As in respect of law and order, the proposals of Government make no material change, and the unofficial members do not oppose the power of certification by the Government in the legislative and the financial field, I do not see why there should be opposition if it is proposed to retain the main features of the present cabinet and of its method of work. Paragraph 22, pages 14 and 15, describe certain classes of cases in which it will be difficult for a Minister responsible to the legislature to take action and to keep his influence with the party in power. The unofficial members who support separate electorates, and retain the law which makes it possible for Minister to have an inflated majority (on this point Government Memorandum also maintains a discreet silence) will probably find no difficulty in dealing with this class of cases. They will decide them in accordance with the wishes of their party in power, *viz.*, the Muslim party which will be the principal party in either of the cases mentioned by me, whether parties are formed on communal lines or on the so-called economic lines. But this will produce a commotion in the Province leading to repercussions in the East and West which it is by no means pleasant to contemplate.

But even if my suggestions were adopted, viz., joint electorates were introduced and the formation of parties under the mask of economic interests were made impossible, if the power of making all appointments, high or low, were completely taken away from the ministers and departmental officers, and disciplinary action taken by them were made appealable before an Independent Board, and thus communal tendencies were driven to the background—it would take some time before the mental bias engendered by previous administrations would disappear. Administration is an art which can be learnt only by long practice. It will take some time before the friends and associates of a minister will realise the difficulty of the position occupied

by one who owes his own seat in the Council, to a mixed electorate and who is responsible to a Council elected by a mixed electorate. But a non-communal atmosphere is possible, and will grow only under the condition which the acceptance of my proposals will create. I would, however, in that case, retain these safeguards for five years.

SERVICES.

I agree with all that has been said in paragraphs 42-44. I would, however, add that even appointments to subordinate and Ministerial services should be controlled by the Public Services Commission either directly, or by selection committees or Boards appointed by it, with a reservation for backward classes and to redress communal inequalities.

I endorse the recommendation that has been made for extension of the period within which the right of retiring on proportionate pension, should be exercised for entrants before or after the first of January, 1930.

PART III.—CENTRAL AND PROVINCIAL SPHERE—PARAGRAPH 2.

I do not support the proposal that power not clearly defined as vesting in the Central Government should vest in the Provincial Government. The proposals of the Punjab Government do not amount to a complete transfer of responsibility to the provincial legislature, and until this takes place and as long as in several matters the central government through its agent the Governor, exercises the power of supervision and control, the residuary powers should vest in the Central Government. In the constitution of Canada Anno Tricesimo Victoria Reginae, Chapter III of 1867 which transferred much greater powers to provinces, residuary powers under section 91 were vested in the Central Legislature.

LEGISLATIVE FIELD.

I agree that the difficulty adverted to in paragraph 83 of the Enquiry Committee Report of 1924 may be dealt with by the rule making power of Government to be specially provided for in the Act. As I have no personal experience of the administrative difficulties felt, I cannot myself give any idea as to what the rules should be.

FINANCIAL FIELD.—PART III OF THE OFFICIAL MEMORANDUM.

I do not support the proposal that the property allocated by Parliament to a provincial government should be secured to it by statute. I am unable to reconcile this with the concluding part of paragraph 26. As long as the Secretary of State exercises his financial control over Indian revenue, as long as his power of control is wider than that of the Secretary of State for the Colonies, Crown lands which cover a large area

in the Punjab, should vest in him. I do not know what lands other than Crown lands there are, which according to Government proposals should be allocated to provinces.

I am opposed to the proposals made in paragraph 21, viz., that the Residuary power of taxation should be transferred to the Provincial Government, and also to the suggestion that if grant of this power is not found possible, the list of schedule taxes should be so amended as to include a discretion to impose taxes on incomes in a category below the minimum taxed by the Government of India.

This will as pointed out by the Honourable Mr. Manohar Lal, introduce an element of variation in different Provinces, in fixing the lowest incomes free from all taxation.

FRANCHISE.

I agree with the proposals contained in Part IV, page 37, paragraphs 5 and 6. I am not in a position to say anything as to whether the European or Anglo-Indian seat should be made by nomination or should be open to election, but the representative of the Indian Christians should certainly be elected. There are Indian Christian Associations in the Punjab. There is no reason why they should not be called upon to elect a representative.

I also agree, that the Muhammadan seat for landlords paying Rs.500 or more as land revenue should be increased by one. The number of Muhammadan landlords paying Rs.500 or more as land revenue, is larger than the number of the Hindu and Sikh landlords. But there is no reason to retain the constituency of Tumandars, who are only 10 in number. Their number cannot be increased. Recently their kind rents have been replaced by cash rents. The class hardly retains now any peculiar characteristics of its own. It should be merged in the landlords constituency. Industrial labour should be given an electorate, and its representative should be elected; similarly the representative of retired military officers.

It is I think unfair to ignore the depressed classes for representation to the Council. Their total number in the Punjab is said to be 800,000. It is true that they are educationally and economically very backward. But if it is impossible to form an electorate for them, recourse may be had to nomination. The Megh colony in Sialkot will probably be able to supply one or two members. I would assign to them at least one seat if not two. I agree that the future council may consist of 125 or 126 members if one seat for depressed classes is added.

With regard to the proportions that have been assigned to communities in the Punjab, I may point out that these do not depend upon the voting strength of each; but upon an arrangement that has once been arrived at and which is known as the Lucknow Pact of 1916. The terms of that pact are no doubt

now in the melting pot; but in varying the terms, the following general principles based on justice and fair play should be borne in mind.

1. All minorities should be treated with equal consideration regard being had to their wealth, education, tax-paying capacity, and stake in the country.

2. That the proportion of the representation of the Hindu minority in the Punjab which is nearly equal to its proportion in the population should in no future scheme be reduced. Their case is similar to that of Muslims in Assam.

3. That the weightage given to the Sikh minority in the Punjab claiming as it does 30 per cent. of representation should not be reduced as long as the weightage given to Muslim in U. P. and Bihar is retained.

The Punjab Government is inclined to the view that until the voting strength of each community with the lowered franchise is ascertained, it is difficult to determine the proportion to be assigned to each community in the new seats which will be thrown open. This is an entirely wrong view. The present proportions were assigned as the result of the Lucknow pact, which leaving the question of Sikh representation indeterminate, assigned 50 per cent. to Muslims and 50 per cent. to non-Muslims in the Punjab. The Committee appointed by the Punjab Government to assign seats to communities, did not feel justified in lowering the Hindu representation including special constituencies to anything below their proportion in the population, and this automatically gave nearly 18 per cent. to the Sikhs. This internal distribution of Sikh or Hindu seats might have been confirmed on the ground of its being the average of the population and the voting strength, but a comparison of the voting strength of the Sikhs with their population was not the determining factor of the proportion assigned to them. It is, therefore, unnecessary to wait for the figures as to the voting strength, in order to assign proportions for the new seats.

It remains now to offer a few remarks about the creation of a second chamber, which has not been proposed by either the official or the unofficial members. I gather from newspaper reports that some Provinces have proposed second chambers. I am not going to propose them for the Punjab, but if the question comes up before the Central Committee or the Commission, I should like to make some suggestions about its formation.

1. It should be mainly elected.

2. Nowhere should it be based on separate electorates.

3. The communal proportions of the lower house which the reservation of seats will guarantee, should be retained in the upper chamber.

4. The preponderance of the representation of landed interests, which will characterise upper chambers in all provinces, should be counter-weighted by representation of other special interests. In the Municipalities of the United Provinces representation of special interests is allowed on a wide scale. In the case of the Punjab these interests may be the following :—

1. Indian trade.

2. Education, the electorate consisting of the professorial staff of all collegiate institutions, thereby giving opportunity to the election of men with scholarly attainments.

3. Retired Civil Officers above a certain rank, say, gazetted officers. Before long we will have in our midst retired High Court Judges, Commissioners, Superintending Engineers, Ministers and Executive Councillors, who may not like to enter Councils through general constituencies owing to the stress and strain of an election campaign. In countries in which the gulf between those who hold the power, and those who do not, is not so wide as it is in India, men of this class are secured by nomination; but in India the power of nomination is apt to be abused, and may lead to the nomination of persons whom the general public do not hold in esteem.

4. Retired Military Officers of Commissioned ranks.

5. Members of the Bar of more than 10 years standing.

That men of the class who can be elected by these special interests can come in through general constituencies is no reason against the creation of special constituencies for them. There are half a dozen fellows of the Punjab University in the Punjab Council, representing general constituencies, and as many, if not more, paying land revenue of more than Rs.500, who have come in through general constituencies, though special constituencies for these classes exist. I may here mention, that joint electorates for a second chamber in the Punjab will not obviate the necessity of joint electorates for the lower house. The Ministers who will be the principal custodians of power will be responsible to the lower house. I want Ministers to be persons who can rise above communal considerations, and who are placed in environments which favour a national rather than a communal outlook. The condition is easy enough to bring about in the Punjab and perhaps in Bengal also.

F—LOCAL SELF-GOVERNMENT.

The whole question of Local Self-Government needs a thorough examination. With regard to the representation of minorities there is a diversity of practice not only between one province and another, but between different kinds of local bodies within the same province. In the Punjab communal representation in the shape of separate electorates, and the reservation of seats,

has been adopted with regard to municipalities but not with regard to District Boards. In some provinces it is the Muhammadans who complain that they are inadequately represented on local bodies, and in other Hindus. It is the absence of a general principle uniformly applied to all which keeps up irritation between the communities. All questions connected with representation to councils arise also in respect of representation to Municipalities and District Boards, and should be solved on a uniform plan. In order to take away separate electorates from Municipal areas or Local Board areas in which the community insisting upon separate electorates has a majority of voters, or in order to introduce separate electorates in areas in which a minority community wants reservation or separate electorates, and the council is unwilling to give them either, the Parliament will have to assert a general principle incompatible with the existing practice. I am unable to say what that general principle should be. The only suggestion that I have to make on this point is that either the Government of India Act should empower Government of India to make rules for general application about representation to Local bodies, or such rules should be made by Parliament itself. The matter cannot be left in the hands of the provincial councils, where there is bound to be preponderance of one community over the other, and where the communities are not likely to come to an agreement as to how far and in what manner the principle of communal representation should be applied. My own view with regard to representation to local bodies is the same as that with regard to representation to councils, viz., that there should be (1) reservation of seats for communities, (2) that there should be separate electorates only in cases in which (*a*) the minorities want them and (*b*) in which the minorities are so small as to be unable to exercise appreciable influence in the election of the members of the majority community.

On the question of recruitment to services, I have already expressed my opinion in the preceding sections.

Report

of the

Burma Committee.

CHAPTER I.

TERMS OF REFERENCE.

1. On the 13th of December, 1928, the Honourable the Finance Member moved the following resolution in the Burma Legislative Council, namely—

> " that this Council do elect a Committee of seven non-official members to confer jointly with the Indian Statutory Commission."

U Ba U (Mandalay) moved, by way of amendment, that the following words be added to the original resolution :—

> " for the purpose of determining the immediate steps necessary for the attainment of full responsible government."

The amended resolution was carried by a majority, and the Burma Provincial Committee was elected the same day. The Provincial Committee is thus bound by the terms of the above resolution to suggest what they consider, from the materials at their disposal, to be immediate steps necessary for the establishment of full responsible government in Burma.

CHAPTER II.

THE RECOMMENDATIONS—THE FIRST STEP—SEPARATION.

2. We hold that the first step towards the attainment of full responsible government in Burma is the separation of Burma from the rest of British India. We have already indicated our reasons for holding that opinion in our provisional report and we do not intend to traverse the same ground again. We would however, add that Burma's political connection with India is wholly arbitrary and unnatural. It was established by the British rulers of India by force of arms and is being maintained for the sake of administrative convenience. It is not an association of two peoples having natural affinities tending towards union. It is neither a combination of two willing partners. In all essential features of corporate life Burma widely differs from India. There is nothing in common between the two peoples except their common allegiance to His Majesty the King-Emperor which need not necessarily place one of them under the political tutelage of the other.

Besides, Burma's political subservience to India has seriously jeopardised her financial and economic interests and even threatens to denationalise her.

3. Financially, Burma's connection with India has inevitably placed her within the orbit of the Meston Settlement, with the result that she has to surrender about 50 per cent. of her revenues, *i.e.*, those collected under the " Central " heads, to the Government of India, and is left with an income which is hardly sufficient to meet her increasing needs. It has been shown in Part VI of the Government Memorandum and confirmed by Mr. Layton that the revenues classed as " provincial "

are inelastic and show little capacity for expansion, while the heads known as " Central " reveal a remarkable tendency for growth. We consider that this defect is rooted in the principle of the Meston Settlement and cannot be remedied by a redistribution of the heads of revenue; and we are of opinion that Burma's revenues will develop more quickly if she is separated from India. The Government of Burma have shown how by separation Burma would gain at least three crores per annum. In any case, so long as Burma remains a part of India, she will be compelled to pay her proportionate share of the cost of the Central Government, and the only way by which Burma's financial solvency can be secured is by separation.

4. Economically, Burma's connection with India has not really been so fruitful of good results as is commonly supposed. The so-called development of Burma by Indian capital and Indian labour has practically meant the exploitation of Burma's resources and has hardly brought any benefit to the sons of the soil. On the other hand, a big slice of Burma's earth has already passed into the hands of Indian capitalists. From the statement of objects and reasons of the now dropped Agrarian Bill it would appear that the land that has passed into the hands of the non-agriculturists such as moneylenders, and others, of whom the Indians form a large percentage, is over four million acres.

While the unrestricted flow of Indian capital tends to " dispossess the swain," the uninterrupted flow of Indian labour, however advantageous it may be to the foreign capitalists carrying on business in Burma, tends to oust indigenous Labour from the field. According to Mr. Bennison, the Officer-in-charge of the Labour Statistics Bureau, Burma, " unless the methods of agriculture are improved a keener competition will take place between the Burman and the Indian for a share in the urban life of the province, especially in the more skilled occupations " (Report on Labour Conditions, paragraph 244). He then goes on to point out that every year " there is a large excess of Indian immigrants over emigrants and it might be imagined that this excess comes into direct conflict with the indigenous population in competing for work in the various spheres of employment " (paragraph 245).

5. It will thus be seen that Burma's political connection with India cannot be justified on any grounds that count in the affairs of nations. We, therefore, strongly and unequivocally recommend that Burma be immediately separated from British India.

CHAPTER III.

The Recommendations—Responsible Government.

6. The next question that arises is, what form of government should Burma have after separation? Clearly, Burma cannot remain stationary once the principle of the progressive realisation of full responsible government has been accepted. We

need not attach too much importance to such names as Home Rule, Dominion Status and so forth. We would not make an attempt here to draft the future constitution of Burma but would only briefly indicate the lines along which we think Burma should advance towards the goal of full responsible government.

(a) *Relations with the Home Government.*

7. We desire that Burma, separated from India, should be placed in direct relationship with the Home Government, through the Secretary of State for India. Ever since the British connection Burmese affairs have been administered along with those of India by the India Office, and the severance of her connection with the India Office would mean the reshuffling of the machinery of administration at various points and a disturbance of long existing arrangements which are not desirable. The Secretary of State for India should, of course, be styled the Secretary of State for India and Burma, and he should have a separate Council to deal with Burma affairs.

(b) *The Legislature.*

The present communal electorates should also be maintained, until conditions alter to justify their abolition, even at the risk of " slower progress towards the realisation of common citizenship." Further we are of opinion that increased representation should be given to Indians, Karens and Anglo-Indians. We would further recommend that communal representation be given to the Burma Muslims.

8. Opinion is strongly divided as to whether the Burma Legislature should be uni-cameral or bi-cameral, though we are unanimous in thinking that some checks are necessary on the popular Assembly. The majority considered that the Legislature should be uni-cameral and that the checks should be exercised by the retention tentatively of the official bloc and nominated members for five years. While the minority are in favour of the bi-cameral system and consider that the necessary checks could be exercised through the Second Chamber. One of the minority, however, is prepared to accept the view of the majority in case a Second Chamber is not possible, but the remaining two view with disfavour the retention of the official bloc—but not as experts without votes, in so far as the officials are concerned. The majority are fully aware that the retention of the official bloc and the nominated members runs counter to the principle of responsible government. Until such time as a proper Party system is evolved the majority feel that the officials and the nominated members should be retained to supply the steadying influence which is essential for carrying on any stable administration. The nominated members should be provided for the representation of special interests otherwise unrepresented in the Legislature.

9. As regards Franchise we consider that the franchise should remain unaltered for the present.

(c) *The Executive.*

10. The executive power should be vested in the Governor acting on the advice of his Ministers, provided that the Governor should have power, subject to the previous approval of the Secretary of State, to override the Ministers, if he thinks that such action is necessary in the interests of :—

(1) the safety and tranquillity of the country or any part of it; or

(2) the financial stability of the country.

There should be six Ministers, five of whom should be non-officials and elected members of the Legislative Council and one an official. The six Ministers should have joint responsibility and will be responsible to and removable by the Legislature. The Ministers shall be appointed by the Governor.

(d) *Power to alter the Constitution.*

11. The power to alter the constitution should be vested in the Legislative Council but not before the expiry of five years from the date on which the new constitution comes into force. After the expiry of five years the Legislative Council shall be competent, by a resolution passed by a two-thirds majority of the Council, at a meeting in which not less than three-fourths of the total strength of the non-official elected members are present, to alter the constitution. Provided that the changes thus passed by the Legislature shall be submitted to the Secretary of State in Council for approval.

(e) *The Services.*

12. As soon as possible after the separation of Burma and the adoption of the above constitution, a Public Service Commission should be appointed by the Governor acting with his Ministers to direct the future recruitment, appointment, discipline, retirement and superannuation of public officers. The existing rights of the all-India Services working in Burma should be safeguarded, but in future all recruitment should be made on an all-Burma basis.

(f) *The Safeguarding of Minorities.*

13. The safeguarding of minorities is a problem which deserves very careful attention. We have already recommended the retention of communal seats and the extension of the communal electorate to the Burma Muslims as a necessary though from the national point of view objectionable device to ensure the representation of important minorities in the Council. It

is now becoming increasingly apparent however that the allocation of a few seats in the Legislature does not really constitute an adequate safeguard, unless full rights of citizenship are guaranteed to the minorities in the constitution itself. These rights include the right of free worship, the right to follow their own customs and to educate their children in their own languages and religion, the right to promote their own culture, and above all the right to own property and to receive a share of the public revenues for the maintenance of their own educational and charitable institutions. In the new democratic constitutions in Central Europe these rights have been acknowledged and provided for in the constitutions; and we recommend that these rights of the minority communities should be guaranteed in the future constitution of Burma.

CHAPTER IV.

THE RECOMMENDATIONS—AN ALTERNATIVE.

14. If, however, separation is considered to be outside the region of practical politics, we recommend that Burma should be given at least the same advance as is granted to the major provinces of India. The working of the reforms in Burma has been more successful than in any other Indian province, and Burma has been free from that acute political agitation that has been a prominent feature of Indian politics. Burma is endowed with many advantages—her freedom from religious quarrels, her large extent of literacy, her emancipation of women, her democratic social system—which mark her out as *prima facie* a more promising soil for the introduction of democratic government. The least therefore that Burma can claim is the measure of self-government which is conferred on the major Indian provinces.

AUNG THIN,
Chairman.

BAH SHIN,
BA U
(*Subject to a note of dissent*).

M. EUSOOF,
SHWE BA,
C. H. CAMPAGNAC,
M. M. RAFI
(*Subject to a note of dissent*).

NOTE.

1. Mr. Rafi says that he does not agree with some of the sentiments expressed in Chapter II and that he will write a note of dissent on this point. But if separation is demanded on the

principle of self-determination he will support it provided dominion status is granted.

U Ba U is for separation with dominion status.

2. For Uni-cameral :—
   (1) U Aung Thin.
   (2) U Bah Shin.
   (3) Sra Shwe Ba.
   (4) Mr. Eusoof.

For Bi-cameral :—
   (1) Mr. Rafi.
   (2) Mr. Campagnac.
   (3) U Ba U.

Mr. Campagnac says that he agrees to paragraph 8 if bi-cameral cannot be granted.

Messrs. Rafi and U Ba U are against the retention of the official bloc in any case, but they do not mind officials coming in as advisers.

NOTE OF DISSENT BY MIRZA M. RAFI.

I differ from my colleagues in the view expressed by them that " the first step towards the attainment of full responsible government in Burma is the Separation of Burma from the rest of British India."

To hold such an opinion would mean that of the successive stages on the road to full responsible government in Burma, the next in order, after Montagu-Chelmsford Diarchy, is Separation, which will lead to full responsible government.

This view is obviously untenable; for, by no stretch of imagination can one establish the relationship of cause and effect between separation and responsible government.

Separation need not necessarily precede responsible government; it is a concomitant and not an antecedent of responsible government; both must come together and not one before the other. I am afraid that my colleagues have allowed, perhaps unconsciously, the constitutional issue, which is more vital to Burma's progress to be clouded by the more or less deceptive issue of political Separation from India. Separation does not represent a forward stage in the constitutional development of Burma, but is rather the political effect of her constitutional development. Besides, the statement quoted above is an admission of our present unfitness for full responsible government with which I do not agree.

I believe that Burma is fit for self-rule. We do not know, however, whether the British Parliament will forthwith acknowledge our fitness by an immediate grant of Home Rule. If they do not, it will in my opinion be unwise and futile to press for Separation. For, in that case, Separation would mean taking a leap in the dark for which we have hardly any justification. It would be flying from evils we know to evils we know not of. It will leave Burma weak and isolated, divorced from a connection which, whatever its detractors might say, has admittedly helped her in the past to rise from her political slumber and fight her political battles and to which the present Reforms in Burma are largely due. That is the reason why a large section of the Burmese people is opposed to Separation. This section, it is well-known kept aloof from the Enquiry held by the Statutory Commission.

The verdict of the Legislative Council, too, cannot be taken as conclusive; as the Councils were boycotted by a large section of the Burmese community; and as the Separation question was not made an issue in the Elections. If Home Rule is not conceded, I would rather demand provincial autonomy for Burma, which can of course be secured by her remaining a province of India. My conception of provincial autonomy includes the transference of all provincial subjects, not excepting law and order to the control of popular ministers responsible to the Legislature, and the elimination of the official bloc and nominated members. I would also demand that the revenue derived from the rice export duty should be credited to Burma. That would in my opinion virtually amount to responsible government short of Dominion Home Rule, without the uncertainties of the position advocated by my colleagues. Burma should, moreover, have a bi-cameral legislature elected on a higher franchise based on property. The interests of minorities should be safeguarded not only by communal electorates but also by providing for the education of the children of the minority communities from State Funds and reserving a certain percentage of appointments in the Public Services for them.

Regarding the Indian connection, and all its dire consequences which have apparently so far frightened my colleagues that they are prepared to sail the uncharted seas of Separation rather than remain a part of the Indian Empire, I think I can do no better than quote the observations made in the Census Reports of 1911 and 1921. At page 74 of the 1911 Report we find the following:—

> "As far back as the history of Burmese national life can be traced by means of its chronicles and its legendary lore, migration from India has been one of its most prominent and continuous features. Both the Burmese and the Talaings owe their evolution from a number of small, wild, scattered, disunited and nomadic tribes into large and cohesive kingdoms, to their contact with Indian colonists who had settled in numerous small colonies in the valley of the Irrawaddy. The earliest attempts at any form of government beyond a mere tribal organisation were commenced under Indian auspices at Tagaung, at Prome and at Thaton. The religion of Burma equally with its system of government was obtained from Indian sources. Indian influence is to be found in every branch of Burmese life, not only in its religion and its government, but also in its architecture, its festivals, its ceremonials, and its more intimate and domestic phases. The further back, in point of time, the investigations are carried, the greater is the degree of Indian influence perceived. In view of the prevailing tendency to asume that the Burmese as a race are doomed by the modern incursions of Indians into the province, it seems necessary to emphasise the fact that the existence of the Burmese as a powerful and a widespread race is due to Indian immigration. Just as in the past the Burmese tribes assimilated what was essential and what was advantageous from the immigrant Indian, and evolved a highly individualised racial existence from the amalgamation, there is reason to believe that the present phase of Indian immigration is strengthening rather than weakening the hold of the Burmese on the province."—(Census of India, 1911, Volume IX, BURMA—Part 1, Paragraph 75.)

I refrain from quoting at length the estimate made in the Report of the part played by Indian labour and capital in Burma. I would refer those interested to the Report itself, particularly to paragraph 364:—

> "Briefly Indian capital has been required to assist in the agricultural development of Burma, and Indian labour to supply an essential contribution to its urban development."

As regards Indian labour competing with indigenous labour my colleagues have conveniently extracted a passage from Mr. Bennison's

Report to suit their purpose, forgetting that in the same paragraph (244) of the Report the same writer has remarked that

> "although the Burmans may be expected to take an increasing share in industry the province will be dependent on Indian labour for many years to come, especially for the hard, monotonous unskilled work which is so distasteful to the Burman. In Rangoon, Burmese unskilled labour is practically non-existent, and it is difficult to imagine how industry could be carried on without the disciplined gangs of Indian coolies."—(Paragraph 244, Report of an Enquiry into the standard and cost of living of the Working classes in Rangoon, By J. J. Bennison, B.A., I.C.S., Officer-in-charge, Labour Statistics Bureau, Burma.)

The above, I hope, is sufficient to dismiss the bogey of competition.

The following extract from the Census Report of 1921 will further expose the hollowness of the argument that "Burma's political subservience to India has seriously jeopardised her financial and economic interests, and even threatens to denationalise her" (Paragraph 3):—

> "To a nation alive to the conditions the present number of Indian and their rate of increase offer no menace. There will be room for them always. But, while the Indians may come to Burma and work for the advantage both of themselves and of Burma, there are at present no signs that they will within any reasonable time dispossess the Burmese and convert Burma into an Indian country. Those who come only for a short time cannot do this; those who stay will tend to be absorbed as they are being absorbed now. By their absorption they will of course influence Burmese development as they have always done, but the essential character of the country must remain Burmese."—(Census of India, 1921, Volume X, BURMA —Part 1, Paragraph 168.)

I hope I have been able to show that the Indian bogey has no existence except in the imagination of those who decline to see facts as they are. Taking all the circumstances, I think it would be an act of political unwisdom to separate, with all the risks and responsibilities which Separation must inevitably mean.

(Signed) MIRZA M. RAFI,
Member,
Burma Provincial (SIMON) Committee.

NOTE OF DISSENT BY U BA U.

In am unable to agree on essentials with the majority of my colleagues of the Burma Provincial Committee. The Legislative Council asked us to confer and determine the immediate steps necessary for the attainment of full responsible government. But my honourable colleagues now ignore the mandate and propose to retain such of the features of the existing constitution that are found by experience to be the obstacles in the chartered journey towards the declared goal of full responsible government. I feel it, therefore, to be my duty to try to point out those obstacles for immediate removal. The Council has also resolved latterly that Burma should be separated from India. That resolution gave us a further direction to outline subsequent measures upon Burma's severance of the Indian connection. The Majority Report again lacks some comprehensiveness in that it does not embody a discussion on those subsequent measures. I may as well, therefore, survey those measures and propose how those should be settled without a dangerous loss of time.

COMMUNAL REPRESENTATION.

My honourable colleagues recommend to retain the communal seats in the Legislative Council. They further go on to say that the number

of those seats should be increased above the present quota. They also propose to treat as a new separate community the Burmese Muslims who have been not treated as such hitherto for the purposes of elections to the Legislative Council. They wish to have constitutional safeguards also in order to ensure the right of free worship, etc. These demands for communal and religionary representations are nursed entirely by the Indian complex traditions, and so I should say that this question of the representation of minority communities should be examined in the light of Burmese conditions only.

In Burma, neither the Muslims, nor the Brahmans, nor the Christians are known to have been debarred on account of their religious beliefs from occupying high offices in the service of Governments, both under the Burmese Kings and the British Crown. The Burmese society has all along been so democratic as to allow of equal chances for all. " Religious cleavages among the indigenous races of Burma are almost entirely absent, or carry with them no political significance "—(Sir R. Craddock). Non-party Selection Boards have been constituted recently to prevent a " spoils system "—(Government Memorandum, page 2). It may not be out of place here to state that the Burmese-Buddhist Kings had the custom of endowing mosques for the Muslims and chapels for the Christians, and these buildings can be seen even now in Mandalay and Mecca. Although the British Government in Burma does not endow any institution for purely religious purposes, all the educational and medical institutions, whether Muslim, Hindu, Christian, or Buddhist, receive Government grants uniformly. This British policy has taken root in the suitable soil of Burmese-Buddhist tolerance. Thus there is no reason whatsoever to entertain any anxiety on the part of the religious denominations who form the minorities in Burma. If any piece of legislation threatened to discriminate between religions, it could effectively be prevented or suppressed by the existing and usual statutory provisions. There have been such preventive and effective provisions already, viz., the Instrument VII (3) of His Majesty's Instructions to Governors, and Rule 2 (*a*) of the Rules for the Reservation of Bills under the Government of India Act, 1919. Parenthetically, should I mention that even these usual provisions have never in Burma found any occasion to operate, and I am supported by the Government of Burma's view when I say that such occasions " are not likely to be frequent in Burma " (*see* para. 14 of the Secret Memorandum). A necessity to ask for further constitutional safeguards does not arise.

It is a misfeasance to adjudicate the question of minorities in Burma by the Indian precedence. No single Burmese race forms an important minority in one part and a majority in another part of the country, as the Hindus and Muslims do in different parts of India. The Chins of the Backward Hill Tracts of Burma are not a parallel of the depressed classes or " untouchables " of India, nor are the members of the majority community of Buddhists of Burma in any sense the parallel of the high-caste Hindus of India. The Chins call themselves Burmans when they both mix together by an advance of the times. The Buddhism is a tolerant religion, and the Burmese a democratic society. Communal feeling is not deep-rooted in Burma. I know of a gentleman of the Chin origin who was nominated as a candidate for the Council by a political party, and as a Burman he is working with that party for all the three terms of the Legislative Council down to this day. The general constituencies, where the Burmese Buddhists dominate by numbers, have also returned an Anglo-Indian, a Karen, many Burmese Muslims and many Burmese Chinamen. They generally work together to further the national cause. The special constituencies of Karens, Anglo-Indians and Indians, however, return their own men, and the returned members of the special constituencies do not mix as freely as those of the general constituencies with the rest of elected members. I should therefore say

that the existence of special communal constituencies tends to divide up the members into racial groups, generally viewing the questions of importance from racial angles, instead of fostering a national unity of purpose. A healthy and vigorous public opinion is not possible of formation so long as the system of religionary and racial representation remains. Any constitution, which purports to be progressive but perpetuates that system, has defeated and will defeat its own purpose.

My colleagues confess that this device of communal representation is "from the national point of view objectionable"—(*see* para. 13 of the Majority Report). They admit that "there is the risk of slower progress towards the realisation of common citizenship"—(read its para. 7). The Honourable Mr. Montagu and Lord Chelmsford in their Report stated: "Any general extension of the communal system would, in our deliberate opinion, be fatal to that development of representation upon the national basis on which alone a system of responsible government can be possibly rooted." Mr. C. H. Campagnac deposed before the Whyte Committee that the racial feelings should not be accentuated by communal representation (pages 212 and 213 of Vol. III, Record of Evidence). His experience, he said, was that there was no difficulty for the Anglo-Indians and Burmans to mix freely and co-operate one with the other on public matters. On that eve of the constitutional reforms, he said that the Burmans would vote for the best men, whether Anglo-Indians, Europeans or Indians. While the reformed constitution has been working now, the Burmese have actually voted, as I have shown above, for any candidate, irrespective of his race and religion, provided that his political creed is the same, or about the same, as that of one party or another of the Burmans. Communal representation is thus unnecessary in Burma. I am, therefore, to recommend that the system of communal representation, which is admitted on all sides to be "objectionable," "risky," "fatal," and "unnecessary," should be scrapped in Burma.

Official Bloc and Nominated Members.

Opinion is sharply divided among the members of our Committee on the question of the official "bloc" and nominated members in the Legislature. The small majority of my colleagues wish to retain the "Government bloc," i.e., the group of nominated official and non-official members, for the purpose of supplying a steadying influence until such time as a proper Party System is evolved. According to their opinion the nomination is necessary also for the representation of special interests.

It is really difficult to classify any interest as "special." The interest of the "under-dog" is as much a special interest as that of a well-to-do citizen, or that of the sons of the soil, as much such as that of non-Burmans. After all these interests can be considered as class interests, and the class does not have territorial bounds. The basic interest of the Indian coolie is the same as that of the Burmese labourer, and the interests of the leaders of industries, whether Burman, Indian or British, are identical. The indigenous races of Burma and the nationals of the other parts of the British Commonwealth are so well mixed up in interests and outlooks nowadays, that the representation by way of nomination of any "special" interests will only destroy the unifying tendencies of the Commonwealth.

The retention or abolition of the Government bloc raises the constitutional issue as to whether diarchy should continue. I may here point out what was our experience with regard to the bloc. This bloc was used as a counter-poise against the weight of public opinion finding expression in the Council. Out of the 24 resolutions on which keen votings were recorded during the term of the second Council, 21 were passed against the wishes of the elected representatives of the people. That was possible because the members of the Government bloc pulled their weight against those wishes (*vide* pages 83 to 86 of the Secret

Memorandum). The declared aim of the Government of India Act, 1919. was at least to give an opportunity to the people's representatives to voice the people's wishes in the Legislative Council, but as much as the above record shows, that aim has been defeated in practice. It is, therefore, only natural that the Legislative Council does not enjoy as much of public confidence as it should. Secondly, the Government bloc was used either as an appendage to a minority party or as a substantial nucleus to form a bureaucratic party with loose members. Hiding behind such an ingenious combination, both of the two halves of the Government could ignore the wishes of the Legislative Council. Appendix IV to Vol. III of the Government Memorandum clearly shows that many of the resolutions passed were not acted upon by the Government.

I may mention what the leader of the opposition said during one of the sessions of the Council, and I hope it will show how the elected members' perseverance was being taxed by the unsatisfactory conditions obtaining in the Council. U Pu, the leader of the deputation to England in 1920, and President of the Legislative Council at present, said in 1927: "By questionable means they have caused the secession of certain members from this side of the House. I only hope, Sir, that Government will not find one day that it has paid too dear a price for such a support as it has obtained. With the aid of these supporters the Government has utilised the whole weight of the official bloc to stifle the aspirations of the people and thwart their progress. Resolutions moved by members on this side of the House have always secured the support of the majority of the elected members of the Council. Yet the Government was able to defeat them through its official votes. The presence of nominated and official members in a House such as this is against modern democratic ideas, but when the Government abuses its privileges, utilising them as a means to massacre all opposition resolutions regardless of merits, and on the other hand to introduce repressive and oppressive measures, then, Sir, the Council become not only a farce but a danger to the people."

The official bloc was more than a piece of "illogicalities attendant on a transitional period," as the Montford Report regarded it to be. It was a source of many troubles as well. On account of its existence, the Legislative Councillors of both the Government party and the Opposition had become demonstrative in the Council, and the electors have become desultory in the country. The Government now remarks that the official bloc "has obscured the responsibilities of the Legislative Council and the electorate for transferred subjects" (Page 4 of the Secret Memorandum). My colleagues of the Provincial Committee also admit that "the retention of the official bloc and nominated members runs counter to the principles of Responsible Government." It only follows that, if at all there must be responsible government according to the declared policy of His Majesty's Government since 1917, the Government bloc ought to go. The existence of officials as advisers without vote in the Legislative Council falls under another category. Even then the Ministers can collect, as they do collect in all countries, the views of the permanent officers in their departments, and put them before the House for the sufficient information of the House. And so even their presence will not serve a useful purpose.

My colleagues again declare that the government bloc should be retained "until such time as a proper party system is evolved." These sentiments of my honourable colleagues should be considered in the light of the Government's finding as recorded on page 73 of Vol. III of the Memorandum. It is there recorded that: "In the first Council the Nationalist Party was rigidly organised. It had a leader and a party whip, and its attitude and the concerted action to be taken in regard to measures coming before the Council were settled beforehand at meetings of the members of the party." So there is a properly organised party, and, if there are no other properly organised parties than the

Nationalist Party, it must be due to the fact that any organised party is found to be useless for effectiveness, because the Government bloc can combine with any minority party or any loose grouping of independent members for the purpose of forming a formidable government party and defeat any organised party. The Government has stated that "the existence of the official bloc in the Legislative Council has helped to retard the formation of a proper party system" (Page 4 of the Secret Memorandum). This in plain language means that as long as there exists the official bloc in the Council, so long will the party system have little or no chance of formation and growth. Should the official bloc be retained until proper party systems are evolved, then I should say "No" most emphatically. The Legislative Council should contain elected members only.

BI-CAMERAL LEGISLATURE.

"The double organisation represents no principles, but only an effort for prudence." To be practical, we should bear in mind that Burma will be a new state, free and vigorous. Burma is to be separated from India, and all her national questions will have to be discussed and settled by her own Legislature. Constitutional devices should be provided for in order to prevent hasty legislation, to make the Legislature representative of all shades of public opinion, and to provide special seats for the best intellects of the country in case such intellects may not find an entrance into the legislative bodies in an ordinary course of election. I am of the firm opinion that the bi-cameral system of legislature under the following conditions will satisfy all the three requirements enumerated above without offending constitutional principles.

The Lower House should consist of elected members on not less liberal a franchise than one existing at present in Burma. It is well known, however, that under the existing arrangement there is a disparity between the sizes of electorates of urban and rural areas. The population for an average urban seat is 32,205 persons, and that for a rural seat is 211,521, according to the last census. The average number of voters per seat for the general urban constituencies is 3,700, while the average number of voters per seat in the rural constituencies is 37,000, approximately. "The contrast is rather surprising," as the Chairman of our Joint Conferences remarked. This disparity strongly called for a rearrangement of the constituencies. It may here be pointed out that the proportion of the registered rural voters to one member in Burma is about the same as the proportion of all persons of the population to one member in the Dominion of Canada. It is further to be noted that the area of a rural constituency in Burma is as wide as 2,000 to 8,000 square miles (App. I to Vol. III of Government Memorandum). All these unwieldy sizes of the constituencies are due to the smallness of the number of the elected seats allotted to the general constituencies of the present Council. The number is 58 out of 103 of the whole Council. This number of elected members of the general urban and rural constituencies should be so increased to 150 as to give one representative to about 76,000 persons on the average, and both the urban and the rural electoral areas should be divided to conform to this average.

Apart from making the Lower House truly representative of the people, this rearrangement will have two other desirable effects. Certain of the new and smaller electoral areas will contain the existing administrative subdivisions where the Karens live in large numbers, and thus they will have a full opportunity to elect members of their own community if they choose, though they should not. The smaller constituencies are more convenient for members and opponents to canvass for votes or make occasional tourings for the purpose of influencing public opinion, and thus the political awakening of the masses will develop quickly, the public opinion soundly, and the relations between the legislature and the electorate ever closely. Each constituency should elect not more than one member because this will render an election issue clear.

Women in Burma have enjoyed the right to franchise equally with men. They have shown an interest in public and social matters nearly as much as men, and my experience shows that. their participation in the electioneering campaigns are a feature to esteem. But they are being debarred from qualification to be members of the legislature on account of sex. This has caused them to agitate and demonstrate. A non-official resolution in the Legislative Council to remove the sex disqualification was moved, but it was defeated by the vote of the Government bloc, though the majority of the elected members supported the resolution. A deputation of the women of Burma waited upon us during our Joint Conference with the Statutory Commission in Rangoon, and the distinguished ladies of the deputation asked for the statutory abolition of the sex disqualification. I am impressed that their right is overdue, and I am, therefore, to recommend that their full right be given.

The Upper House should be representative of Local Self-governing Bodies, the University, the Law Council and the Trade and Commerce. All its members should be elected. I consider the indirect election from the self-governing bodies to the Upper House to be unobjectionable, because that election is meant for the Upper House. What is important in my considered opinion is that the total number of all members of the Upper House should not exceed two-thirds of the strength of the Lower House, and the relation between the Upper House, the Lower House and the Governor should be practically the same as those of the Components of the Parliament of Great Britain.

Every member of both Houses should have privileges analogous to those enjoyed by the members of similar Houses in all the British Dominions.

The Ministers.

We, the members of the committee, agree that the Ministers should be jointly responsible to and removable by the Legislature.

The majority of my colleagues, however, recommend that one of these ministers should still be an official. I must admit that I cannot think out how an official minister can be responsible to and removable by the Legislature. I am grateful to the Honourable Mr. S. A. Smyth, the Finance Member, for his answer to a question put by Major Attlee at Joint Secret Conference. He said that the official would not really be removable like a non-official minister. So I would take it that the joint responsibility of an official minister with the other ministers to the Legislature is a thing which may exist in imagination but is not of a practicable possibility.

The Honourable Sir Joseph A. Maung Gyee stated before the same conference that the official minister would be in charge of any portfolio. If the officer were to be in charge of the Finance portfolio, he would be in charge of the life-blood of all the departments, because Finance regulates the activities of all the departments of State. The Official Finance Member, enjoying immunity under the existing Act, paralysed the policies and strangled the activities of the elected ministers who had committed themselves to some policies with their constituents. We know only too well by bitter experience in Burma what effect the Rule 27 of the Devolution Rules had on the departments transferred to the elected ministers' control. The book on "The Working of Diarchy in India," by "K. Putra," is full of ex-ministers' complaints in the Indian Provinces. The major, if not the only fundamental, reason why the present diarchial form of government does not satisfy the people is that it refuses them the power of the purse. A repetition of the same refusal, plainly or impliedly, will perpetuate the cause of the same complaints. I would therefore commend for acceptance the essence of evidence of the Honourable Mr. (now Sir) J. A. Maung Gyee before the Muddiman Committee, namely, that the subjects should be provincialised and all the subjects transferred to popular control (read Page 200 of the Report).

There is a minor point in my colleagues' recommendation which calls for comment. I agree that the volume of the work of the Government of Burma will increase after separation from India, and that this increase will necessitate an increase of the number of the groups of departments from the present four. But it is almost impossible to fix the number of ministers definitely by a statute as my colleagues seek to fix. The volume of the work a group of ministers will have to dispose of will vary according to times and circumstances. An emergency may require the creation of a new ministry at any time. Conditions of the country may, on the other hand, so settle at some other times as to allow of an absorption of one ministry into another. I would that we leave a reasonably wide scope for the future governments to fix the number of their ministries. The number of Cabinet ministers should therefore be between five and twelve. Considering also that sound economy is a desideratum, the salary of ministers may be reasonably reduced from the present scale.

5. The Status of the Governor.

Neither the Government of India nor the Governments of Provinces have received statutory recognition as corporate bodies. The Governor-General of India is personally the agent of the Secretary of State for India for the purpose of local, i.e., Indian, administration. What the people of Burma and of India are trying to have is not necessarily a better form of government, but a national Government. This statement should not be misunderstood by any. It should be borne in mind that all the self-governing British Dominions have their respective national governments on their own national status, with a right to govern badly or wisely. The wisdom is attained through the responsibilities of offices and nourished by the elections. Burma aspires to have neither more nor less than the status of the British self-governing Dominions. As a Dominion, Burma should have her government fully responsible to the people. It is necessary that the Governor should not be the actual head of Burma Government. If such, he will be mixed up in the national politics of the country, and thus lower his status of the Representative of the King. As the King's representative, the Governor will exercise in Burma the same prerogatives as His Majesty exercises in Great Britain and the Dominions, including the right to maintain the cordiality of the inter-colonial relations.

Relations with the Home Government.

My colleagues recommend that Burma should be placed under a separate Council of Burma in charge of the Secretary of State for India and Burma. I cannot agree on this point too. One among many reasons for not keeping her under the Secretary of State for India is that Burma has suffered a great deal because she has all along been wrongly considered to possess all the defects of the Indian society, and all the problems that are strictly Indian. A mere addition of a word to the title of the Secretary of State for India, or the constitution of a separate Council under the Secretary of State, will not disabuse the minds of members of the British Parliament or the British electorate of this confused impression.

Burma is a nation in her own territory, a single national spirit permeates her national life, and her social characteristics are of the finest that can be desired. As a nation she has an individuality not like India. Her military outlook is primarily the same as that of America. This fact would convince all, I trust, of the necessity to keep Burma and Australia relatively together. She would be better placed for the future, if along with Australia she is placed under the Colonial Office. Burma will then be one among the Crown Colonies on the one hand, the self-governing Dominions on the other. Burma cannot be judged by the standards of the Crown Colonies, because she has passed the Crown

Colony stage. Burma will be judged by the standards of the self-governing Dominions, because she is to have responsible government like the Dominions. I am, therefore, to recommend that Burma affairs be dealt with by the Colonial Office.

Defence.

The British Commonwealth has a portion of its frontier in the North East of Burma. It is a land frontier. It is at present defended by the Burma Military Police for immediate purposes. Its real security rests ultimately upon the co-operation of the rest of the Commonwealth. It does not, however, mean that the Sino-Burmese frontier must be defended by the Imperial forces. The immediate responsibility is her own, and the charges for the defence must she bear. The frontier is mountainous, and the existing forces of the Burma Military Police are capable of keeping watch at a few and strategic points. Of course emergencies may arise here or elsewhere. In time of need that frontier force must be necessarily reinforced by Burma Dominion Forces. And the Burma Dominion Forces should also be prepared to fulfil her obligation to serve the rest of the British Commonwealth according to her national capacity, if the emergencies arise elsewhere. We do not anticipate war with any other foreign nations in the Far East. But each nation forming a unit in the Commonwealth has its own status, and reasonable military precautions are necessary to be taken for self-defence. Burma has the security of her hearths and homes to insure. Burma should therefore start to organise her military, naval and air forces in consultation with British or Commonwealth Experts. Her people should be trained as every other nation is trained. She should have her own Training Colleges, a Naval Base, Aerodromes and Munition Factories of a nature commensurate with her national status and with the requirement for her national security.

Credit, Exchange, Currency and Coinage.

An examination as to whether Burma can depend on her own Credit to justify her existence as a unitary State will show that she has valuable resources both actual and potential. The acreage under paddy cultivation in Burma is 14½ millions, compared to a little over 9 millions under wheat cultivation in Australia. Her rice, teak and rubber, among others, are really dependable, their annual production amounting to 7 million tons of paddy, 366,000 tons of teak, and 1,852 tons of rubber actually. (The Indian Year Book, 1920.) She has petroleum-oil in Yenangyaung, Myingyan, Pokkokku, Minbu, Thayetmyo and Prome. Burma is the chief source of the world's supply of wolfram. Gold, tin, platinum and other minerals are being exploited in different parts of the country. But Burma with all her present out-turn of both agricultural and mineral products is not yet as fully developed as she can be. Irrigation, Railways, Banking and all such important departments of Government are controlled by the Indian Central Government, and they are generally starved. Her economic development is under a tremendous check. Nearly half of her revenues go to the Indian Central Exchequer, and about half, i.e., 4½ crores of rupees, of the Central Revenues from Burma are computed to be a net loss of Burma to India. (Government Secret Memorandum on Separation, Page 8.) The Central taxes are comparatively elastic too. (Financial Assessor's statement.) When Burma is separated from India, she will get back the elastic taxes, as well as the net extra income of 4½ crores. A fairly large portion of this amount will be spent for the development of the country and for helping to build her greater credit.

"Burma has been free from anxieties connected with coinage and exchange, and the Indian balances support her paper currency." (East India Constitutional Reforms; Burma; Proposals; 1920.) This is true so long as Burma can remain a part of India. But Burma cannot. She

must face that anxiety, if anxiety there be. Burma has actually her own credit that is strong enough already, and her credit will grow by her separation from India as shown above. Depending largely upon national Credit, the management of Currency Exchange and Coinage by Burma herself is in no way a real anxiety or a difficulty that she cannot overcome. I am therefore to recommend that Burma should have her own Currency and manage her own Exchange and Coinage.

CONCLUSION.

I fully realise that more than one measure will entail the measure to separate Burma from India. It is however not " outside the region of practical politics " to separate Burma from India, as my colleagues doubtfully think according to their report. The Burma Legislative Council was resolute on this matter, and I am convinced that, when passing the resolution for separation, the Council fully appreciated the programme of making many administrative rearrangements, and that it desired to have all these necessary arrangements made. The Government of India must also have considered this question of separation with its entailing measures, when it said in 1920, " In short, though her goal is similar to the goal before India it is not the goal of the Indian Provinces. This ideal of separation from India is not capable of very early realisation." (Proposals of the Government of India in 1920.) The ideal is there, the Legislative Council has expressed its will for separation, and every section of the indigenous people of Burma agrees to have Separation with full Responsible Government. The policy regarding separation can be decided now by the British Parliament, and the detailed arrangements will follow. As an immediate step, therefore, the British Parliament should introduce a separate Bill, simultaneously with the introduction of a Bill to amend the Government of India Act, 1919, to constitute Burma a separate unit of the British Commonwealth. Her new constitution should be devoid of the obstacles that I have pointed out in the first parts of my note, and should possess the practicable features outlined by my recommendations. " Burma's constitutional problem is complicated, or rather prejudiced, by being mixed up with the larger and much more difficult problem of British India." (Government's Secret Memorandum on Separation, Page 3.) Hence the consideration of Burma's future constitution by a separate Parliamentary Joint Committee, or separately by the Joint Committee, on Indian Act Amendment Bill, is necessary. But the consideration should in no case be postponed till after the Indian Constitution is settled. I am, therefore, to urge upon the Indian Statutory Commission to formulate a separate set of proposals for Burma. In formulating the proposals, the Draft Constitutions of important public bodies of Burma may be taken into consideration for any question that may be outstanding from my note. Knowing as the Honourable Commissioners do that Burma does not like to remain as a helot of India, or as a toy in the hands of the bureaucracy, and also that she presents a better case than India to get a freer constitution, I entreat in conclusion that, by an Act of Parliament, Burma may be given the place of a free nation in the British Commonwealth which stands on the four broad principles of " the Reign of Law constitutionally defined, Individual Liberty, Nationality and Responsible Government."

(Signed) MAUNG BA U.

25th June, 1929.

Report

of the

Bihar and Orissa Committee.

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I.—Introduction.

The Committee was appointed in pursuance of the following resolutions adopted by the Bihar and Orissa Legislative Council at the meetings held on the 21st and 22nd August, 1928 :—

(*a*) This Council recommends to Government that steps be taken to give effect to the proposal of the Chairman of the Indian Statutory Commission, conveyed in his letter to His Excellency the Viceroy of the 6th February, 1928, for the constitution of a Committee of the local Legislative Council.

(*b*) That the Council do now proceed to the election by the single transferable vote of a Committee of seven members to work with the Indian Statutory Commission at Patna.

The following members were elected :—

(1) Raja Bahadur Harihar Prashad Narayan Singh, O.B.E.

(2) Babu Chandreshvar Prashad Narayan Singh.

(3) Raja Rajendra Narayan Bhanja Deo, O.B.E.

(4) Babu (now Rai Bahadur) Lakshmidhar Mahanti.

(5) Rai Bahadur Sarat Chandra Roy.

(6) Maulavi Saiyid Mubarak Ali Sahib.

(7) Mr. Saiyid Muhammad Athar Hussain, Bar.-at-Law.

2. Raja Bahadur Harihar Prashad Narayan Singh was subsequently unanimously elected Chairman of the Committee at the meeting held on the 12th November, 1928. The Committee sat in joint conference with the members of the Indian Statutory Commission and of the Indian Central Committee at Patna from the 12th to the 18th December, 1928. It again met them at Delhi for three days, *i.e.*, the 2nd, 3rd and 4th April, 1929, and the members of the other Provincial Committees on the 30th and 31st March and 1st April, 1929. It has held sittings of its own from time to time.

3. In approaching the task entrusted to them the members of the Committee have been deeply conscious of the great responsibility which it has involved. It has been their earnest desire to understand the complicated problems which confronted them in an impartial and judicial spirit, so as to be able to suggest possible solutions which would help the Statutory Commission to formulate their own proposals. The task of constitution-making is formidable at all times, but in India with its diversity of interests and endless complications it is apt to be baffling. We have primarily concerned ourselves with the problems that affect our province of Bihar and Orissa, and have only touched the fringe of those which concern the Central Government, confining ourselves in the latter to those which have a primary provincial interest. But the " baby province

of India " is in itself composed of three distinct and heterogeneous portions, viz : Bihar, Chota Nagpur and Orissa, and thus the all-India problem is on a miniature scale represented here and complicates the task to an extent which perhaps obtains in no other province in India. We need not enter into the reasons which brought about the present state of things. Administrative convenience may have been one of them, but the fact remains that in 1912 the present province was constituted amidst certain murmurings and misgivings and almost from the very start was handicapped and crippled in financial resources, the exigencies of war time and post-war financial stringency stunting its healthy growth and leaving a legacy of poverty which has to-day earned it the name of " the poorest province in India." At the very outset we would therefore venture to point out that as a condition precedent to the form of provincial autonomy, which we have advocated, it is essential that the finances of this province should be rehabilitated and the unequal burdens, which have been saddled on us, should be removed. It is conceivably probable that other provinces have also to submit their grievances on this account, but the position in this province is worse than elsewhere—Bengal not excluded—and it is therefore essential that particular attention should be paid to this aspect of the question. The Local Government is one with us in this and every one is agreed and the Reforms are not worth having until the financial question has been satisfactorily solved. At another place we have offered a few suggestions which we hope will prove useful.

4. We consider it unnecessary to substantiate the case for provincial autonomy, which is the only next step possible and which broadly speaking we understand to mean autonomy *vis-à-vis* the Central Government, as well as an internal system of responsible self-government in which the Governor should be more or less a constitutional chief with a cabinet consisting exclusively of Ministers chosen from and responsible to the Legislature. The cumbrous system of dyarchy, with its inherent defects and pitfalls, has been worked with undoubted success in this province and we desire to emphasise that success has been possible because of the ungrudging support given by the responsible men of the province and men with stakes who shouldered the task in spite of the fire of hostile criticism. It is this class which particularly deserves well of the Commission. There has been no pandering to irresponsible demagogy on their part, but with patience and perseverance they have earnestly tried to work an unworkable machine and the period of probation has justified the expectations of even the most sanguine supporters of dyarchy. Might not they therefore ask that in the new scheme of things consideration should be shown to them for the confidence which they have so amply justified?

5. We have indicated the peculiarities of this province, with which the members of the Commission are now probably

familiar and which mainly arise because of its heterogeneous nature and we have also emphasised that the financial question must be well kept in the forefront in evolving fresh schemes, and now we propose to briefly indicate the outlines of the proposed constitution. We gratefully acknowledge the services rendered to India by Great Britain and it is our firm opinion that as in the past so in the future the British connection is essential for the well-being of India. India is stepping forward at no distant date to take her place as a self-governing Dominion in the British Commonwealth of Nations. Any talk of separation is idle shibboleth and would be strongly discountenanced by responsible individuals. Those who indulge in such talk have no idea of its implications or they would not give vent to such utterances. Our meed of praise for what Great Britain has done is not meant as an idle compliment but as a tribute to the endeavours which have built up the existing edifice of government.

6. In regard to our proposals we desire to emphasise that they should be considered and given effect to as a whole and not piecemeal. In fact they are so inter-dependent that their partial acceptance would prove to be wholly ineffective and futile and would probably distort them out of recognition in practical working. Lastly, we feel that if our suggestions and proposals are helpful to the Commission and the Parliament in the difficult and laborious task of evolving a suitable constitution, we shall not have laboured in vain and will feel amply repaid.

II.—The Case for Provincial Autonomy.

7. It is a well-known fact that the present constitution, commonly known as dyarchy, has been criticised and condemned by not only those who have made no attempt to work it, but also by those who, while fully aware of its inherent defects, have made a genuine effort to make the fullest use of the opportunities which it offered to the country. Whatever may have been the conditions prevailing in other provinces during the last 10 years, it cannot be denied that in Bihar and Orissa full advantage has been taken of the constitution, and in spite of its various drawbacks it has been worked in the spirit and letter in which it was conceived. In spite of being handicapped by the unfortunate financial position resulting from the apportionment of revenues under the Meston Settlement, we claim that considerable progress has been made in the development of the nation-building departments, particularly education, and the transference of responsibility in the field of Local Self-Government has been attended with success. The success was achieved in spite of the very meagre resources placed at their disposal.

8. In the Council not only has activity been displayed in the legislative field but the conception of party system was

quickly seized upon and developed with vigour and even Government was at times made to feel the weight of organised strength. The development would have been still more rapid if every interest had felt the need of cohesion amongst themselves and had nothing to lean upon in the last resort. Whatever signs of irresponsibility some of the members of the Legislative Council may have shown was mainly due to the feeling that their influence was small, and the ultimate decision rested with the Governor at times in almost trivial details. It has been stated in various quarters that the constitution has accentuated communal, caste and class feeling, but it is obvious that it is a passing phase, which will vanish when democracy becomes real. The minorities will, in time to come, realise that the interests of the majority are identical with theirs.

9. We therefore consider that the period of probation has resulted in displaying our fitness for full responsible self-government in the provincial sphere. Any further probationary period will reinforce the elements that have refused to have anything to do with the present constitution and it cannot be gainsaid that it will be exceedingly difficult to find men to carry on the administration. Provincial autonomy should therefore be the only next step and we feel sure that with the safeguards proposed by us by way of the establishment of a Second Chamber, and the powers given to the Governor, there will be no fear of a breakdown of the new constitution, or of its being adversely worked to the interests of any particular class, community or creed. Under our conception of provincial autonomy, all subjects classed as " provincial " will be under the control of a Cabinet, responsible to a bicameral legislature. No particular safeguards are necessary for Law and Order.

III.—The Legislature.

10. We consider that the Legislature should consist of two Houses, the Lower House, which would correspond to the present Legislative Council, and an Upper House whose constitution we shall presently discuss. Without entering into an academic discussion of the value of second chambers, we would point out that we treat this proposal as an integral part of our plea for provincial autonomy. We have considered the possible dangers that may likely arise from the unrestricted transfer of powers to popular control and to mitigate them we have adopted this check which other self-governing Dominions, viz., Canada, Australia, etc., have also incorporated in their constitutions. The chances of hasty and ill-conceived legislation are considerably decreased with a second chamber and it needs no elaborate comments to prove that there is greater need with us to safeguard that the Legislature is not carried away by momentary impulses as is possible with only a single chamber. The heady wine of full-fledged democracy is apt to produce disastrous results and we for one would not tinker with doubtful constitu-

tional experiments over which we may have to repent later; but would prefer a suitable form of constitutional government in which laws are conceived after mature deliberation and command the respect and adherence of the people and at the same time are a true and representative index of national feeling. We are aware that objections have been raised that the creation of a second chamber will be costly and that no corresponding benefit would be derived from it but our view is that the cost has been over-estimated and the proposed chamber will be no mere duplicate of the Legislative Council but will be a distinct body representative of various interests imbued with ideas of " conservative innovation " which after all is the ideal of political progress. We have given our earnest consideration to the problem and are emphatically of the opinion that a second chamber in this province is the necessary concomitant of provincial autonomy.

11. *Composition of the Legislative Council.*—We have also devoted careful attention to the composition of the two chambers, their numerical strength, the method of election and the franchise. Our view is that the present franchise should continue with certain modifications in respect of the Legislative Council or the Lower House. In the last 10 years there has been an awakening on the part of the electorate but we do not consider that the advance has been so great as to justify us in embarking upon adult suffrage, which is the ideal to be realised as soon as possible. We also do not consider, that for the present at least, any half-way house between the present franchise and adult suffrage will serve any useful purpose. Our proposal is that the franchise should not be extended and it should be left to the future constitution to amend or extend it as circumstances may demand. We are fortified in this view by the opinion of the Local Government that the lowering of the franchise would not admit a more intelligent class of voter nor would political education be hastened by extension of franchise and increase of voters. The dearth of suitable men and lack of suitable machinery for elections, if adult suffrage is introduced, are other points of no inconsiderable importance to be considered in this connection. In fact the administrative difficulties in dealing with adult suffrage are too great at present. There are, however, certain inequalities and defects in the present franchise, which should be removed. The qualification for a vote in the general constituency for proprietors is assessment to local cess of Rs.12 a year or more, while for tenure-holders and ryots and rural traders it is on the average a minimum of Rs.1 or Rs.1-8-0 a year. In order that the standard chosen may work equitably in all cases it is proposed that the minimum qualification in case of proprietors should only be double that for others. Further, the qualifications for a vote in the land holders' constituency are unduly high and we consider that they may be lowered by 50 per cent. to include more of those whose stake in

the country justifies their representation in the special constituencies. Again the Mahants of Orissa and the permanent tenure-holders in the Ranchi district are debarred from voting in these constituencies on the respective ground that they are trustees and not real land-holders. But there seems to us to be no justification for this preferential treatment and we would include them also. In Chota Nagpur such Buinhars and Khunt-Khattidars who have been recorded as such in the Record-of-Rights should be given the vote. The estimate is that at present 8.6 of the non-Muhammadan Urban population and 9.9 of Muhammadan Urban population is enfranchised. The corresponding percentage in the rural areas is 2.0 and 1.7 respectively. The disparity between the two is obvious and in our recommendations we have aimed that the disparity should not be accentuated and the two should be brought together in one line. So far as the women electors are concerned there seems no necessity for making any alterations. The present position gives them the same advantages as men. We are of opinion that Minorities like Muhammadans, Depressed classes and Domiciled Bengalis, etc., should find adequate representation in the Legislature.

12. *Size of Legislative Council.*—It seems appropriate here to discuss what the size of the Legislative Council should be. At present the number is 103 and our proposal is that the total number of members in the future Council should be about 125. At present besides the elected and nominated non-officials there are a number of officials nominated by the Governor called the " official bloc " who have provided the council with official information and have besides formed the nucleus of support both on the transferred and the reserved side. It is obvious that in any scheme of provincial autonomy the " official bloc " cannot find a place and we therefore, propose that it should be abolished. We are also of the opinion that the Ministers should have parliamentary secretaries to help them and these should ordinarily sit in the other House. These secretaries would to a certain extent replace the officials. We would also do away with nominations of non-officials who represent classes and interests except where it is found absolutely necessary owing to the impracticability of forming a constituency or for some other cognate reason. The nomination in such a case should be made by the Governor by the panel system. It follows from what has been said that the place of officials and nominated members will have to be filled in by elected members in the future Council.

13. *Size of Constituencies.*—Closely allied with the question of the size of the Council is the question of the size of constituencies. The general consensus of opinion is that the present-day constituencies for the Council are unwieldy and should be reduced in area. The essence of democratic government is that a member of the legislature should be able to effectively represent the wishes of his constituency and this can only be done

by close and constant touch. With the retention of the present franchise it would therefore be possible to reduce the area of constituencies and remove other existing anomalies, and we have no doubt that a suitable committee will hereafter deal with the question when Parliament has come to an ultimate decision as to the future form of government. It has not been possible for our committee to go into the details of the formation of constituencies and they have been unable to undertake the task for lack of suitable machinery at their disposal. But we would like to bring out one important point, viz., that the increase in the number of seats should proportionately go to those who have a substantial interest in the province and this, in an agricultural province like ours, would mainly be rural interests.

14. *Separate Electorates.*—We consider that the system of election should continue to be by the direct method and the secret vote by ballot should also continue. The controversy about joint and separate electorates has now been worn threadbare and elaborate arguments have been advanced in support of either of them. It would be futile to deny that separate electorates are bad for the growth of national spirit and that there is a distinct tendency for the community which considers them to be a valued privilege to chalk out a line of its own for the evolution of national life. We have reluctantly accepted them as the Muhammadans have so insistently demanded their continuance for some time more and in this particular instance we hesitate to violate their feelings trusting that they themselves will decide to get rid of them. The Ceylon Reforms Enquiry Committee has recommended their abolition and we also trust that at no distant time the abolition will be adopted by us also but for the present we have got to consider what would be most feasible for the harmonious working of the new constitution and for giving a sense of security to the important minority of Muhammadans. A considerable section from amongst them have at least for the present demanded that separate electorates should be retained as they consider that without this retention they will not be able to send true representatives. The matter has engaged our earnest attention but as our Moslem brethren are adamant on this point and since we consider that the new constitution should be inaugurated under happy auspices and without distrust or doubt, we recommend that at present separate electorates should be retained. But we would also insert a provision in the constitution itself whereby joint electorates could be substituted if a majority of the representatives of the community concerned declare themselves in its favour by a resolution in Council.

15. *Composition and powers of the Second Chamber.*—We have advocated the creation of Second Chamber and its composition has naturally engaged our earnest attention. To save it from being a mere duplication of the Lower House and in order that it should be truly representative of the aristocracy

of land, wealth, experience and intellect, we propose that it should consist of 40 members composed as follows :—

(1) Nominations by Governor 5

(2) Elected by special constituencies :—

(*a*) Bihar Landlords' Association 4

(*b*) Chotanagpur Landholders' Association ... 2

(*c*) Orissa Landholders' Association 2

(*d*) Indian Mining Association 1

(*e*) Bihar Planters' Association 1

(*f*) Bihar Chambers of Commerce 1

(*g*) Indian Mining Federation 1

(*h*) University 2

(3) Elected by general constituencies :—

(*a*) Non-Muhammadans 15, viz., 3 (from each division).

(*b*) Muhammadans 6, viz. (1 from each of Bihar divisions and one each from Orissa and Chota Nagpur and one from Patna).

The electorate of the University constituency will consist of members of the Senate or Fellows of a recognised University.

The qualifications for an elector in the general constituencies will be :—

(*a*) for proprietors, payment of Rs.2,000 land revenue or Rs.500 local cess.

(*b*) for tenure-holders, local cess annual value of Rs.500.

(*c*) Income Tax assessment on income of Rs.15,000.

(*d*) Ex-High Court Judges, Ex-Ministers and Ex-Members of the Central and Provincial Governments, Ex-Vice-Chancellors of the University, Ex-Presidents of both Chambers and Ex-Members of the 2nd Chamber, Principals of Colleges.

(*e*) Holders of the titles of the rank of Khan Bahadur and Rai Bahadur and above.

(*f*) Recipients of the Kaiser-i-Hind medals (both classes).

(*g*) Holders of all English titles.

(*h*) Chairmen and Ex-Chairmen of District Boards and of District Municipalities in the year preceding the election. Where there are no elected chairmen, the Vice-Chairmen would take their place. The system of election will be by the direct method and the life of the Second Chamber will be six years.

16. Having indicated the composition of the Second Chamber we will briefly summarise the powers that in our opinion should be given to it. In matters of legislation including taxation Bills the Second Chamber should have equal and concurrent

powers with the Lower.. All Bills may originate in either Chamber though an exception in this regard may, according to well-known conventions, be made in respect of Finance Bill which should be initiated in the Lower Chamber. In the event of a deadlock between the two Houses we propose that the Governor should have, at the instance of the Second Chamber or of his own accord, the power to call a joint session of both the Houses and the matter may be decided by a majority of votes. When the Second Chamber returns a Bill for reconsideration to the First Chamber with modifications which the latter does not accept, then also we propose that the Governor should be empowered to call a joint session where a majority vote should decide the point. We look forward to the Second Chamber to form an effective wing of the legislature.

IV.—The Executive.

17. The Executive Government would consist of a Governor and a Cabinet of five to seven Ministers from members of both the Houses and one of them would occupy the position of a Chief Minister and all of them would be jointly responsible in the whole field of provincial administration. We imagine that it will always be possible to find a seat for a Muhammadan in the Cabinet. If Orissa remains a part of this province it should also have a voice in the Cabinet. The Ministers during their term of office would be entitled to sit in both the Houses, viz., Ministers of the Upper House would be entitled to sit in the Lower House and *vice versa*. Since the party system has not appreciably developed yet and a snatch vote against the Ministry might result in their resignation, we would propose that a vote of censure against the Ministry would, for purposes of resignation, be effective only if passed by a majority of members of both the Houses at a joint meeting convened for that purpose. This safeguard would prevent the Ministries from being unstable.

18. *The Powers of the Governor.*—Our proposal is that the Governor should continue to be appointed by the Crown and we have no desire to restrict the field of selection. He should be given certain discretionary powers, to be used especially when the peace and tranquillity of the province are threatened and where delay in summoning the legislature is likely to lead to undesirable results. He would be responsible that the powers of central control are effective and should both Houses refuse supplies he should have the power to certify a sufficient amount to meet the immediate commitments of Government. In the legislative field in addition to the power of veto or of remanding or reserving a Bill, we would give him the power of certifying any Bill which he considers essential to the interests of any minority community. In the field of executive action, only where central control is threatened the Governor

should be given the power to suspend orders of the Executive Government until a reference has been made to the Central Government and orders obtained thereon.

19. We have indicated the powers that we propose to give to the Governor. In the opinion of the Local Government the Governor must have the power to suspend orders of Executive Government, to dismiss the Cabinet, and dissolve the Council, and in the event of the suspension of the constitution, power to carry on the administration, and the power of certifying necessary expenditure and the power to issue Ordinances. The Local Government also consider that the Governor should have power to certify emergent expenditure. All these powers may appear to be a great check to the complete fulfilment of provincial autonomy, but our opinion is that he should have a considerable reserve of power to the extent that we have indicated above, which he could use in cases of emergency to check any violation of the provisions of the constitution. Our own opinion is that these reserve powers will be used on extremely rare occasions, but unless these powers of supervision and interference are specifically mentioned in the constitution there remains the danger of the constitutional machinery coming to a standstill.

V.—The Judiciary.

20. In every civilised country it is necessary that the Judiciary should be of proved ability and have the reputation of being independent, and usually, the appointment by the executive is the most common method for the choice of judges. Although there is no reason to fear that in actual practice the appointment by the executive will not be free from party politics, appointments all over the world being made according to the recognised requirements of honest judicial work, we are of the opinion that the appointment of High Court Judges should, as heretofore, be made by the King-Emperor on the recommendation of the Governor. The question of the separation of judicial and executive has been exercising the minds of politically-minded people for a considerable time. We recommend that some steps should be taken to effect a reform which has been long overdue and although there may be several practical difficulties in the complete divorce between the executive and the judicial it should be possible to ensure that all magistrates are subordinate to the Sessions Judge and not to the District Magistrate as at present. In the new scheme of things the present position of these officers will be anomalous and although the retention by the District Magistrate of his judicial powers may be necessary the subordinate Magistrates need no longer combine the judicial and executive functions in themselves. The proposal which will involve some cost should be put into operation as soon as the financial position of the province improves.

VI.—Minorities and Interests.

21. The Mohamedan Community and Safeguards.

In all schemes of democratic Government it has been an established principle that representation of various interests should be secured in the legislature. The division on religious lines alone is not defensible unless the economic interests are also intimately bound with the religious issue. In our province the main and the natural division of interests are rural, urban, mining, commerce, the landlords and tenants and these go to form the economic fabric of the state. A Mohamedan landlord or a Mohamedan tenant cannot but have identical interests with that of a Hindu landlord and a Hindu tenant. From this it may be gathered that mere difference of religion is no justification for separatist tendencies, but as however some of our Moslem brethren have demanded separate electorates we have at another place reluctantly conceded them as a necessary evil for the only reason that in our opinion the suggestion of their discontinuance should first come from the community which holds them in such high esteem. We have no doubt that they will soon come to realise that a Majority wholly independent of the Minority votes soon becomes hostile and that it can by sheer weight of its number override the wishes of the Minority. There has been a boom in communal feeling as there was no incentive to Mohamedans to develop the capacity for fusion and development on national lines and we hope that in the new conditions the way will be paved for a better understanding between the communities.

22. A section of the Mohamedans has also laid great stress upon weightage in the seats of the Legislature. We agree that the historical and political importance of a community must be taken into consideration in determining the share it would occupy in the legislative bodies, but it is obvious that by no arithmetical formula could we arrive at the correct standard for each community demanding weightage. In fact the smaller the community the greater is the need of fortifying its position so that its voice may not go utterly unheeded, and if a particular community has to be given excess representation it is obvious that it must be at the expense of the Majority community or some one of the smaller Minorities who are already a negligible factor. We have already said that we regard communal electorates as a serious hindrance to the development of the self-governing principle and the evils of any extension of the system are plain. We think it only right that the Moslems should have their full share on the population basis by reservation and anything over and above this must be won by them by their own efforts. The merit of this proposal is that for seats other than the reserved ones there will be an open contest between members of all communities and the healthy rivalry which is so essential for the growth of national spirit will thereby

be fostered. It will also prepare the ground for the doing away of separate electorates altogether when it is realised that the ring fence policy neither brings better candidates nor advances the cause of the particular community on national lines, but only perpetuates class divisions and stereotypes existing relations. It is fatal for a state to arrange its members in any way which encourages them to think of themselves primarily as citizens of any smaller unit than itself.

23. While therefore there seems to be no justification in theory or history for any weightage in excess of the population we consider it only right that the Minorities at the same time should be made to feel that their cultural, linguistic and religious interests are not likely to be jeopardised in the state of which they form a part. We therefore propose that certain safeguards such as have been conceded to the Minorities in the newly created European States should be incorporated in the constitution. The proposed safeguards are :—

(1) Provision to ensure to the Mohamedans adequate share in grants-in-aid given by the state and self-governing bodies to educational institutions.

(2) Freedom for the promotion of Urdu language, culture, religion and guarantees for the protection of property and charitable institutions.

(3) Provision that no bill or resolution or any part thereof will be passed in the legislature if the standing Minority of that particular body oppose such bill or resolution or any part thereof on the ground that it affects the interests particularly of the Muslim community, the question whether the matter is communal to be decided by the Governor.

24. Whatever communal tension may have existed we are convinced that the tension is merely temporary, and amicable and harmonious relations will surely be restored in the very near future. In the scramble for power it is not surprising that the numerically weaker community should consider certain safeguards to be necessary but once the scramble is over the two communities will inevitably go back to the normal relations which for centuries have been cordial and sincere. We consider that these solemn guarantees embodied in the constitution together with discretionary powers vested in the Governor will reassure the Moslem community as well as other vested interests and will help to bring about a feeling of security that is necessary for the building up of a united and vigorous nation. The committee is generally convinced that the practices, usages and conventions which have been observed in our province in the past and from which these safeguards are deduced will continue to be observed in the future and it will not be necessary to advert to the constitution every time to ensure that the above provisions are observed in spirit and letter. In any case double provision (by specific mention in the constitution as well as

by giving discretionary powers to the Governor) should allay all apprehensions which our Moslem brethren may feel on the score of the likelihood of being neglected in the threefold development mentioned above. Once our Muslim brethren are convinced that there is no likelihood of domination by the majority community and the safeguards that we have proposed ought to remove the misapprehensions which may exist in their minds, it will be possible to work shoulder to shoulder for the common uplift and well-being of the country without any communal bickerings and dissensions which have been an ugly feature of the past few years. We believe that in order to create the spirit of harmony and goodwill it is essential that the various interests and communities should be given ample chance for healthy development. The intensity of feeling amongst Mohamedans on this point has convinced us that we should incorporate the solemn guarantees and thus satisfy their legitimate aspirations. It is with a desire to remove the atmosphere of suspicion that the Hindus have agreed to the safeguards and they hope that in the fullness of time their Mohamedan brethren will feel sufficiently strengthened to rid themselves of all artificial props.

25. The incubus of communal discord has warped the body politic and loomed unduly large in the political horizon in the last few years. We wish to kill it, the sooner the better, and rid ourselves of unhealthy growth. We can only trust to time and the healing influence of the suggested palliatives for the restoration of healthy and normal relations. We consider that if the Moslem community wishes to relinquish any of the safeguards, they may do so by bringing in a Bill which is approved by two-thirds of the majority of their representatives in the legislature. At the same time we are emphatic that the safeguards must not be pushed too far or they will eat like canker the very root of administration itself. There has been a demand in some quarters that a percentage in the services, local bodies and the cabinet should be specifically reserved for Mohamedans. We consider that we cannot entertain these suggestions as they are evil in principle, unpracticable, and would make democratic government a mockery.

26. We admit that democratic government implies that such minorities as exist are comfortable in it so that they may readily co-operate in the general life. There should ordinarily be no distinction in the enjoyment of the right of citizens and language and religious differences should be respected in law, administration and education. We would like to point out that the principles of such safeguards as we have suggested are by no means entirely new and even the League of Nations has laid down certain principles for the protection of racial, religious and linguistic interests of the minorities. The League of Nations and the recent Peace Treaties have defined the

scope and character of special treatment or protection that can be claimed by the Minorities. A mere group or association is not a Minority unless it is distinguished from the majority of the country by race, religion or language. Indeed the theory of minority protection governing these treaties seems to be that protection should not be afforded to any artificial or accidental aspects or features which a Minority may assume in its career. The native, inherent and fundamental features of a Minority are worthy of all respect and recognition is due to them so as to enable the Minority Community to develop along its own line of evolution and make its own contribution to the general culture of the state. It seems to be obvious that it would be fatal in any scheme of protection of Minorities to create a state of thing so that a group of inhabitants regard themselves as permanently foreign to the general organisation of the country. It is further clear that it is impossible to allow the creation of a state within a state and the minority must be prevented from transforming itself into a privileged caste and taking definite form as a group instead of becoming fused in the society in which it lives. The exaggerated conception of the autonomy of Minorities if pushed to the last extreme will result in the Minorities becoming a disruptive element in the State and a source of national disorganisation. In ascertaining the degree of protection which should be given to Minorities we have considered what is best calculated to prepare them to gradually merge all their interests in the national community to which they belong.

27. We have not heard of any State created under the auspices of the League of Nations which admits the existence of separate interests of Minorities in matters of public service or administration. Such safeguards as exist are purely negative and aim at the removal of disabilities grounded on race, religion or language. As an example of racial and religious protection Article 14 (Treaty of Sevres with Greece) may be quoted :—

> " Greece undertakes to afford protection to mosques, cemeteries and other Moslem religious establishments. Full recognition and all facilities should be assured to pious foundations (wakfs) and Moslem religious and charitable establishments now existing, and Greece shall not refuse to the creation of new religious and charitable establishments any of the necessary facilities, guaranteed to other private establishments of this nature."

In a similar manner the question of linguistic and educational protection can be dealt with and a scheme drawn up whereby wherever sufficient children are coming forth *maktabs* may be established. It is not unknown that India is a party and signatory with other big Powers to the Peace treaties and she is therefore to that extent responsible for the solution of the problem of Minorities. In our own instance our Moslem

brethren have certain separate interests to cultivate and those are mainly religious and linguistic or concern personal and property law. For these we have no objection to guarantee special protection. Our Moslem brethren ought themselves to feel that it is a vicious system to plunge down safeguards at every step and therefore we have rightly limited the safeguards only so far as they affect the cultural, linguistic and religious features. We trust that our proposition will commend itself and that the question of minorities will be dealt with on international lines rather than in a narrow spirit of heckling and bargaining.

28. *The Case of Landlords.*—No apology is needed for discussing the position of this most important class which has played such a versatile part in the life of this province. Mainly owing to historical reasons and comparative instability of agrarian laws this community has had special interests to nurse and foster. Their immense stake in the country and natural position of leadership was at one time enough to guarantee that they should inevitably have an effective voice in the deliberations of the affairs of the province and in such representative institutions as were established by the Reforms. In the Morley-Minto Councils out of a total of 21 elected members they were given five representatives which clearly goes to indicate that the necessity of safeguarding their special interest was recognised. The Montagu-Chelmsford Report disposed of their claim by remarking that " where great landowners form a distinct class in any province we think that there will be a case for giving them an electorate of their own." The pious hope was expressed that they would be returned in sufficient numbers from the general constituencies and their strength in the Council will be maintained. The hope has however been gradually dissipated as the result of three successive council elections will show. Not only have they been swamped away from seats which they could legitimately consider as safe but others who were precariously returned had to surrender their particular convictions in matters most vital to themselves. In the present Council the seats exclusively reserved for landlords are five which they consider to be pitifully low. The only two ways in which their legitimate demands could be met would be either (1) to give them guarantees about the inviolability of their position or (2) to give them adequate representation such as they enjoyed before so that they may not suffer from any handicaps. The first is impracticable, at least for the present, owing to the unsettled condition of agrarian laws which at any time may be in the melting pot and become issues of live importance. There seems to us to be no justification however in withholding from them their just share in the administration of the country. Their position has been assailed bitterly at times and considering the peculiarity

of this province and the immensity of their interests we consider that our recommendation regarding them should be accepted, at least for the transitional period that special electorates are to continue. Meantime if the agrarian laws are satisfactorily settled and the position in which they stand is clarified we may hope that they themselves will fuse their interests in the common lot.

29. Keeping the economic side of the province in view which is mainly agricultural the diverse interests of the landlords and tenants naturally loom larger than elsewhere and as the tenants will secure sufficient representation through the general constituencies it becomes all the more necessary to admit the claim of landlords to a sufficient representation in the legislative council. In the new council each district will have more than two representatives of the general or tenants' interests. The Zamindars in the influential deputation that they led have asked that the number of seats for tenants and landlords should be half and half in virtue of the recognised equality of their interests and though it is difficult to withstand their arguments by reasons of logic we consider that it would be only just and proper to concede that they should have one representative for each district elected by an electorate of their own.

30. It was brought to our notice and indeed admitted by Government that there was undue exploitation of tenants' susceptibilities in the last Council elections by representing that the landlords' interests were utterly hostile to them. To avoid conflict we feel that there are added reasons for the suggestions that we have made.

31. *Other Minorities and the Depressed Classes.*—While considering the question of special Minorities and interests we would like to mention the subject of the Depressed Class. At present they have two nominated members to represent them. We have said at another place that we are against the system of nomination as a rule and if there are no insuperable difficulties for the formation of suitable constituencies the elective system should be extended to secure their representation. This province, to quote from the Government memorandum, " does not in fact contain any large number of depressed classes whose condition constitutes as it is understood it does in some other provinces a special administrative problem." In view of the increase in the size of the legislature and in view of the fact that we consider their present representation to be rather meagre, we would recommend that the number of members to represent their interests should be increased in the Legislative Council. A suitable increase would be justified in the present circumstances but anything beyond that would prove infructuous in view of the paucity of available men to represent them. We have, however, every sympathy with them in their attempts to raise their status. Their special interests have not been

totally neglected in the past and indeed it is no exaggeration to say that the attempts to ameliorate their conditions have so far mainly come from the other communities. They will also enjoy the additional safeguards with other minority communities for which we have vested the Governor with special powers. We are emphatically of the opinion that no disabilities should accrue to them in respect of obtaining educational facilities in schools or in other social matters, such as, use of wells, roads, public offices, etc. If the idea of prefacing the constitution by fundamental rights is approved then the above-mentioned clauses can be inserted in them. There is no reason why principles of freedom and equality in the political, economic, social and legal affairs should not secure for them a normal existence and also help them to raise the standard under which they at present admittedly live. We would also provide that the labour interest should be separately represented in the council in view of the growing industrial population at Jamshedpore, Jamalpur and elsewhere. Other special interests like those of Europeans and Domiciled Bengalis would continue to be represented as before except that in lieu of nomination, election should be substituted. We advocate a corresponding increase in their representation and it seems to us to be reasonable that the increase should be proportionate to the importance of each interest.

VII.—Amendment of the Constitution.

32. Our view is that any proposal for amendment of the constitution should be passed by 2/3rd members of the house, in which it originates as well as by 2/3rd members of the other house, and then it should be passed, by an absolute majority of the two houses sitting together. There seems to be no point in devising any very elaborate machinery for this purpose. It has been suggested to us that in the constitution itself certain Fundamental Rights should be incorporated, viz., regarding freedom of conscience, equality before law, writ of *habeas corpus*, free provision and practice of religion, equal right of access to public roads, public wells, etc. We consider that there should be no objection to their being incorporated in the constitution itself. These will give added strength to the special safeguards that we have provided for some of the Minorities. If any of the constitutional clauses relating to a Minority require to be amended the procedure will be what we have provided in the safeguards for the Muslim community except that ultimately the proposal will be passed by the legislature by a majority vote after it has received the approval of members of the particular community.

VIII.—The Position of Services.

33. It is presumed that the services will undergo a transformation under the new constitution and our proposal is that

a Public Service Commission should be set up for this province which, amongst other things, should be responsible for the recruitment of the members of the various services with the exception of the Indian Civil Service and the Indian Police Service. In regard to them we consider that the recruitment should continue to be on an All-India basis, and that they should retain their present safeguards with a continuance of the Governor-General's guarantee. These services will be under the Governor and they would have a right of a final appeal to the Governor-General.

IX.—Relations Between Central and Local Governments.

34. *Financial Relations and Division of Sources of Revenue.* —In any scheme of future Reforms it is essential that the problem of finance should receive adequate consideration but as has been stated already, it is particularly so in Bihar and Orissa where the finances are the most inelastic as compared with the rest of the provinces in India. There is no need to emphasise the fact that in order to keep pace with the progress of other provinces, it is essential that Bihar and Orissa should not be crippled to start with as was done when the Montagu-Chelmsford Reforms were inaugurated. In regard to its sources of revenue the financial difficulties of this province were recognised by the Meston Committee which recommended that no share of the initial contribution towards the central expenditure should be demanded from it and the result was that whereas after the Montagu-Chelmsford Reforms were introduced other provinces had to contribute large sums to the Central Exchequer, Bihar and Orissa paid no contribution at all. This Committee had the advantage of being provided with the note on Financial Situation prepared by Mr. Layton. Even a cursory glance at the comparison of current revenue with standard revenues and expenditure and revenue per head would clearly show that this province comes off worst, when compared with the other provinces in India. Now although Bihar and Orissa came into existence in 1912 the relations between it and the Central Government at that time were the historical outcome of a growth which had undergone various changes since the British Crown took over the administration of the country in their own hands from the East India Company. The first measure of decentralisation was introduced by Lord Mayo and was followed by the quinquennial settlement of 1882 to 1904 when certain heads of revenue were kept as provincial while others remained as central, and then came the Quasi-Permanent Settlement, and finally the Permanent Settlement in 1911 the salient features of which were that the settlements were based primarily on the " estimated " needs of the province and not on provincial revenues, and the income from divided heads was supplemented by a special contribution both recurring and

non-recurring out of the central and provincial governments. With the inception of the Montagu-Chelmsford Reforms of 1919 emphasis was laid that in the relations of the provincial and central governments the federal element did not in fact exist and that the local Governments were really the agents of the Government of India. It was at the same time recognised that if responsible government in the provinces was to be real and effective the provinces clearly should be able to stand on their own legs and the authors of Reforms were in fact anxious that a complete separation of sources of revenue should take place. The constitutional changes contemplated by the authors of the Montagu-Chelmsford Reforms involved on the financial side the grant of all residuary powers to the provinces. Their arrangement was that stamps and income-tax should be central while excise, land revenue and irrigation were assigned to the provinces to meet the deficit. In the Central Budget they proposed the system of contribution from the provinces about which a reference has been made above.

35. The Meston Committee which came into existence to review the position created by the Montagu-Chelmsford Reforms made certain recommendations and the position is summed up as follows :—

A distinction was made in Central and Provincial subjects and the provincial subjects included irrigation, land revenue, forest, excise, non-judicial and judicial stamps, etc. A share in the growth of income-tax so far as growth was attributable to an increase in the amount of the income assessed was also made a provincial source of revenue. Besides this, proceeds of taxes lawfully imposed for provincial purposes such as taxation and advertisements, amusements, registration, etc., were also made provincial. The central sources of revenue included customs, income-tax, salt, posts, telegraphs, railways, control of cultivation, and manufacture of opium and the sale of opium for export.

36. Since the present Reforms, a series of bitter attacks have been launched against the Meston Settlement particularly from the industrial provinces. So far as Bihar and Orissa was concerned there was less cause of complaint partly because during the transitional period when contributions were being paid, this province alone of all the provinces in India was let off altogether and partly because this was one of the few provinces which derived any benefit at all from Devolution Rule 15, but principally because owing to the increase of the Excise revenue, the revenue ran ahead of expenditure, and there were surpluses from 1922-23, to 1925-26; but now that the period of contribution is over and the excise revenue has begun to decline and expenditure having overtaken revenue, deficits are occurring every year, the fundamental unfairness of the Meston Settlement to Bihar and Orissa stands revealed.

The provincial revenue, as has been indicated, is mainly derived from two sources, viz., land revenue and excise. For reasons which are entirely historical a large proportion of land revenue assessment is under Permanent Settlement. It may be urged that the abolition of Permanent Settlement will be the panacea for all ills but it is strongly urged that the abolition is now admittedly outside the scope of practical politics and unless Government is prepared to face a small revolution it will be impossible to alter the present scheme of things and introduce a novel experiment in place of an institution carrying stability and historical growth which are essential for all successful administrations. The abolition of the Permanent Settlement, if effective at the present moment, would only serve to penalise the present owner of land for benefits received by the original owner. The abolition cannot also be justified from the point of view of economic theory and therefore so far as this province is concerned Permanent Settlement must be taken to be a *fait accompli*. With these premises it is quite clear that no appreciable increase in the land revenue is possible for some time to come.

37. The second prop of this province is the excise revenue but it has been subjected to a fusillade of objections from politicians and there can be no doubt that in years to come the tendency towards prohibition will continue with increasing pace and indeed a time may come when a popular government will be unable to resist a mandate to bring total prohibition within the range of practical facts. With the disappearance of the excise revenue this province, which is already the poorest in India, will become financially bankrupt and will certainly be unable to undertake the ordinary obligations of a civilised administration. The problem thus seems to be a very hard one to tackle but it is to be remembered that under the Meston Settlement it is almost impossible for the provinces to reform their taxation according to the principle of ability to pay for the taxable capacity of their inhabitants. In this connection we would like to remind that with increase of responsible government there will also be necessarily further development in what are now called the nation-building departments. It has been argued and with some reason, that these nation-building departments have virtually been starved after the inception of the Montagu-Chelmsford Reforms and if so far the blame could always be thrown on the shoulder of the Government under guise of attacks on dyarchy it will be difficult when all the reserved subjects are transferred to resist the onslaught of public opinion.

38. The situation in this province has been aggravated by the fact that most of the revenue derived from the mineral wealth is dissipated outside the borders of the province bringing no income whatsoever to it. The opening balance of

101 lakhs in the beginning of 1921-22 is being rapidly exhausted and the demand for the development of nation-building services is on the other hand becoming more insistent and the difficulties to be contended against are, therefore, very serious. The question which naturally arises is the method by which the inequality in the distribution of its resources should be balanced. On these points the Committee offers a few suggestions without committing itself to anyone of them in particular. It is to be remembered that in a province with such meagre resources like Bihar, the partnership with Orissa which also does not possess superfluous wealth has not been fraught with the happiest consequences. It is not proposed to offer the detailed suggestions for the creation of a separate Oriya province but the Committee is of the view that if the proposition is not utterly beyond practical adoption it should be undertaken without the slightest hesitation. We are fortified in this view by the fact that by cutting off Orissa the financial equilibrium is not likely to be upset. Practically speaking it is not likely that any scheme of increased taxation will bring a very large amount of revenue from Orissa but on the other hand there will be a natural and certain demand from the inhabitants of that province to finance various schemes of improvement and utility. The people of Orissa are of the opinion and rightly so that they can very well manage with a comparatively cheap form of administration. If ultimately it is decided that Orissa should remain attached to Bihar we have no doubt that the administrative problems will be tackled in the same harmonious spirit as in the last few years but we make no secret of the fact that the difficulties will be enormously accentuated. As between Bihar and Orissa there are no divided heads of revenue and the heart-burnings which are inevitable in the circumstances are likely to grow. We have great sympathy with the legitimate desire of Orissa for Oriyas and as financial reasons also give an added source of strength to the cause of Oriyas, we would undoubtedly welcome the proposal of amalgamation of Oriya tracts. From all the gathered facts we have no doubt that a separate province of Orissa constituted as above will be able to finance all its liabilities. The rather cumbrous U. P. can easily part with the permanently-settled districts which lie to the north of Bihar and thus while U. P. will be ridding itself of such districts as are dissimilar in administration, these would compensate Bihar as far as size is concerned if the five districts of Orissa are taken away. The sum and substance of what we have said is that both the present partners being financially weak it is no use to dump them together in the pious hope that they will anyhow solve their difficulties. We consider it more reasonable that they should realise their aspirations unfettered by such handicaps. In this connection we would

mention the financial loss occasioned by the lack of a sea-port in Orissa. This should have been remedied long ago.

39. A scheme for empowering the provincial Government to levy surcharge on the central taxes and redistribution of these resources now allocated to the central and provincial governments appears to us to be feasible. We are of opinion that a partial reversion to the system of divided heads or the introduction of grants-in-aid from the central government would have to be introduced, but while we need not make a fetish of provincial autonomy we are nevertheless of the opinion that our province should be allowed to work with as little hindrance as possible from the Government of India. We conceive that the future Government of India will be somewhat on federal lines, and, if so, it is essential that the constituent parts of this federation should not be dependent entirely upon the federal government for the means of provincial development. It is understood that in Canada federal grants-in-aid from federal revenues have been given to the provinces for the purposes of constructing and improving highways and for developing agricultural and technical education, and the same is to a certain extent true of Australia. The Committee desires to emphasise that it is essential to carefully consider the implications arising in the abrogation of the present rule which strictly prohibits the central government to spend any amount on a nation-building department of the provincial government. The advent of a partial reversion to the system of divided heads would undoubtedly be received with a considerable amount of distrust if it means the retaining of control by the Central Government. The question of dividing the Income-tax was examined by the Taxation Inquiry Committee. In the form in which it now exists it is provided that the provincial government receives 3 pies in each rupee on that portion of the assessed income in the province which is in excess of the assessed income of the year 1920-21. Under Devolution Rule 15 the estimated receipts under this head for 1928-29 are 3.50 lacs. Our Committee strongly feels the injustice of the mode by which this arbitrary method was devised upon, because it takes little account of the claims of residents and excludes the province of origin to appropriate a share of the tax which is really paid by the inhabitants of the provinces.

40. In regard to Income-tax, death duties, excise on tobacco, matches, etc., even if the central government levies rates for the sake of uniformity, the proceeds should be earmarked for the provinces in which they are collected.

41. With provincial autonomy the needs of the provinces will multiply and those of the central government will probably remain stationary. The surplus of taxes collected from provinces thus should go to them, and we desire once more to say that we are not opposed to systems of grants-in-aid provided

that there is no undue interference by the Central Government. We imagine that the general control of Central Government must of course remain, so as to co-ordinate the work of all Provincial Governments, and provincial autonomy must be consistent with a policy of Indian development. An automatic method of distributing centrally collected revenues would, however, be preferable. There are certain existing financial handicaps imposed on us by central government for which there is no justification whatsoever and for which we can in no way be made responsible, considering the history and genesis of the case. The interest on Orissa canals which were neither contemplated nor undertaken by this province, should in fitness be borne by the Government of India, which alone is responsible for their fruitless existence.

42. It may seem that in pleading the cause of our province we have been unmindful of others, but this is not so. We only desire to emphasise that whatever standards may ultimately be adopted to regulate financial relations certain handicaps of long standing must be remedied and the demands of our poor province satisfied by special grants or subventions. The final aim is to be financial freedom, which will not sacrifice the necessary central co-ordination.

43. The Local Government has frankly admitted that they were unable to raise the standard of administration in the province owing to its precarious finances. We consider it our duty to point out that no mere paraphernalia of political institutions will help to make the people of the province happy and contented unless reasonable opportunities are given and adequate means found not only to make up for the lost ground, but to provide for their legitimate aspirations. Improvement must be sought in the standard of administration and funds made available for some of the pressing needs so that the province may at least be provided with the essentials of a modern civilised government. The 34,000,000 who comprise this province have suffered neglect so far, and in assessing their needs, " neither past achievements, nor contemplated reforms, nor the revenue collected " should be the criteria, but the largeness of the population, which factor alone is of prime importance. We are not content to remain behind other provinces when there is no seeming justification for it.

44. In the end, we urge that it would be difficult for the province of Bihar and Orissa to provide itself with funds unless there is a redistribution of the sources of revenue, and if a redistribution is to be made somewhat on the lines indicated above, some obvious inequalities will be removed and will bring the new government under more favourable auspices, thereby enabling it to work better. But if other provinces are able to go ahead and Bihar and Orissa is left behind, the result cannot be at all satisfactory from the national point of view. This

province, consisting of administrative units fortuitously composed, being the poorest in India, its individual needs must be taken into consideration by the Statutory Commission when formulating its proposals.

45. *Legislative and Administrative Relations.*—We have not very much to add to the present division of provincial and central subjects, but the present demarcation between central and local governments is so ill-defined that it deserves radical alteration. The present powers of the Central Government in regard to transferred subjects should be extended also to those that are classed reserved when the latter come under the control of the future Provincial Government. Our opinion is that residuary powers should be left with the Central Government.

X.—The Central Government.

46. We feel that we can at best give only very broad and tentative views regarding the composition of the Central Government. We are of opinion that the Central Government should be a strong government able to make itself felt, not only in times of national crisis, but on occasions when provincial differences are acute and require to be adjusted.

47. We also consider that an irresponsible government over a group of autonomous administrations would be an incongruity. The Central Government must, in our opinion, be responsible to the Central Legislature. The obvious limitations are the Military, Political and Foreign departments. The Ecclesiastical is hardly worth mentioning, though it is difficult to defend its continuance. Military policy, like the position of Indian States, must be left to personal conduct of the Governor-General. This does not mean that military expenditure should continue to be non-votable. It would, perhaps, not be unreasonable to demand that beyond a figure agreed upon as a fixed and irreducible minimum, expenditure on the defence of the country must be subjected to discussion and vote by the popular Chamber. With regard to the composition of the Central Legislature, our view is that the defect of large and unwieldy constituencies operates at present to divorce to a certain extent the electors from the elected. It has been felt that in the present circumstances the provincial interests are sometimes apt to be kept in the background. At present, the nomination of officials from provinces has been retained, but as it is likely to be abolished and since we consider that provincial interests will require to be more effectively safeguarded in the Central Legislature, we propose that one-fourth of the members of the Assembly should be elected by the provincial Legislatures. In this connection, since we have proposed that the qualification for the landholders' constituencies should be reduced we would suggest that they should be allowed to send two members instead of one to the Assembly. The landholders, as a class, consider that they have suffered

under the Montagu-Chelmsford Reforms, inasmuch as their representation in the old Imperial Legislative Council was more than fell to their lot when the present Reforms were inaugurated. We consider that for the Assembly, the landlords' franchise should be the same as exists at present for the Legislative Council.

48. In regard to the Council of State, the election should be indirect and the members should be elected by the provincial Second Chambers. This would bring in suitable candidates to compose its membership, and we do not consider that the system of direct election in this case would produce any better results.

XI.—Territorial Re-adjustment.

Orissa.

49. This question assumes a special significance in this province, and we commend to the Statutory Commission and Parliament that it should be approached in a broad and liberal spirit and a satisfactory solution found. A sub-committee of the Joint Free Conference at Patna was formed to go into the question of the Oriya-speaking tracts. We have not received a copy of its report so far. We are strongly of the opinion that a determined effort should be made to overcome such difficulties as there may be, although they are mainly imaginary. Orissa is a separate entity by itself, with distinct culture, language and problems, and by being tacked on to Bihar it has neither benefited the senior partner nor realised its own aspirations. We fear that the partnership, amicable so far as it has been, may not remain so, and we consider that constructive statesmanship should avoid a situation which is pregnant with possibilities of incessant mischief and bickerings. In fact, the argument that financial considerations stand in the way of the formation of a separate province must be considered along with the fact that financial differences as between Bihar proper and Orissa are bound to get acuter and may culminate in a tremendous deadlock. The national aspirations of the Oriya-speaking people have for long visualised an autonomous Orissa free from the domination and shackles of a senior partner, and we are in whole-hearted sympathy with it. Our emphatic and considered view is that nothing short of insuperable obstacles should stand in the way of the amalgamation of the Oriya-speaking tracts, and the formation of a separate Oriya province. The Oriyas will be content for the present with a cheap administration, and they should have it. Regarding Singhbhum district the Oriyas would like to amalgamate it with their new province.

50. The removal of five districts will curtail the size of this province, but we propose that the United Provinces districts bordering on Bihar (some of which are permanently settled), viz., Benares, Gorakhpur, Ballia, Azamgarh, Ghazipur, Mirzapur, etc., should be amalgamated with Bihar. There are

decided advantages in it. The U. P. is an unwieldy province with 48 districts in it, and the administrative problems in the above districts assimilate more to Bihar conditions than to the remainder of U. P. The linguistic, cultural and historical affinity will be reinforced by the adoption of our proposals, and we do not think that there will be any radical opposition on the part of the inhabitants of these districts themselves to the change. We have not gone into the question in great and minute detail, but we believe that these districts would be able to support themselves financially and will not be a drag on the province as a whole. In the past, provinces have been separated and areas torn away because of some supposed administrative convenience. When now the question has been re-opened, the opportunity to make a more rational distribution should not be frittered away. We earnestly hope that this proposal of ours, which has much in its favour and very little against, will receive the serious consideration that it deserves.

XII.—Chota Nagpur.

51. Our colleague, Rai Bahadur S. C. Roy, has proposed that this area should be constituted into a separate sub-province, with its own budget, ministers, etc. We do not think that the arguments for its complete separation have any substance in them, although Bihar pays more to Chota Nagpur than it receives from it, and if separation is effected, Bihar will not suffer in the bargain. The size and revenue of Chota Nagpur are not sufficient to constitute it into a separate province, and, however advisable it may be to form separate administrative units for people possessing community of race, language, tradition and culture, we feel that the experiment can be carried too far.

52. The trend of the evidence led before the Commission was that what the aboriginals require most was not any extensive scheme of self-government, but that their administrative problems should be separately considered and not co-mingled with the rest of the province. It was frankly admitted that even if it were possible to constitute a separate province, it would not be possible to find enough men to run it. It follows from this that Chota Nagpur will have to remain part of some bigger unit, and we imagine that it must be Bihar, of which it necessarily forms part from geographical and historical reasons, although Orissa would not object to attaching it as an appendix. At present Ranchi, in Chota Nagpur, is the summer capital of Bihar Government, and a fresh hunt for a summer capital is obviously unnecessary and undesirable.

53. Chota Nagpur is represented in the Council by nine elected members and two nominated ones who are supposed to represent the aboriginals. The total percentage of aboriginal population in Bihar and Orissa is 14 per cent., and in Chota Nagpur alone it is 58 per cent. It is, therefore, obvious that although

numerically they are the largest population in Chota Nagpur, yet the non-aboriginals do not constitute a negligible quantity of the population. In the course of evidence, it was stated by the Government witnesses that no representation from aboriginals had been received to bring them within the ambit of the Reforms. We consider that the aboriginals should not be kept backward by continuing indefinitely to treat them as incapable of exercising any sort of political function, and so far as Chota Nagpur is concerned it cannot be said that the opportunities within proper limits of taking greater care of themselves were not given to them. We are prepared to concede that the electoral franchise should be widened so as to include headmen, and that a larger number of representatives from the tribal tracts should form part of the future Legislative Council. It requires no elaborate arguments to prove that complete isolation of a part of the country which is on a lower scale of civilisation is fraught with great danger to that area itself and is only calculated to further extend the period of immaturity. We have no doubt that the aboriginals are sufficiently advanced to depend upon elections.

54. At present, the backward tracts are subject to certain safeguards which operate in this fashion, that Angul (which is in Orissa) is kept out of the Reforms, while Santal Parganas is open to positive legislation, and under Section 52A of the Government of India Act to negative action in the sense that a legislation passed by the Legislative Council may not be extended to it. In Chota Nagpur the Bihar and Orissa Legislature is restricted to passing laws solely applicable to the territory by a provision that the Governor in Council can decide the date of commencement and the exceptions and modifications to the Act. A further restriction is that the Governor in Council is authorised to direct that any Act of the Legislature shall not apply to the tract or shall apply subject to certain modifications. In the last 10 years the solitary instance in which use was made of these powers under Section 52A was when the self-government Amending Act of 1923 was passed and the clause which sought to deal with the election of the Chairmen of the District Boards was withheld. We consider that the safeguards under Sections 71 and 52A of the Government of India Act are no longer necessary, and it will be better to leave the power of the Legislative Council unfettered in view of the increased representation that will be provided to the inhabitants of this area. In order to provide that the point of view of Chota Nagpur, or rather of all the present backward tracts, should be fully considered in the Legislative Council, we would provide for the appointment of a sub-committee of the Legislature which should be something on the lines of similar committees in the French Chambers. The Committee would advise the Minister in charge on all questions pertaining to these particular territories, and any positive legislation need not apply

until two-thirds of the Committee are in favour of it, but if the remaining members of the Legislature consider that the Committee is deliberately trying to thwart a beneficial measure then the question might be left to be decided by the Governor. Perhaps it may be possible to provide a Parliamentary Secretary for Chota Nagpur.

55. The position in Santal Parganas is at present even worse than in Chota Nagpur, and we would strongly advocate that it should be brought in line with the rest of the province. In regard to the Damin-i-koh subdivision we would, however, recommend that the present conditions may continue until a further period of five years or, at the utmost, 10 years. In regard to Angul, also, our recommendations are identical, viz., it should be brought into line with the rest of the province.

56. We regret that we have been unable to agree with our esteemed colleague, Rai Bahadur S. C. Roy, but the implications of his scheme are so great and the practical difficulties so varied that we have reluctantly come to the conclusion that the idea of a sub-province or separation must be ruled out altogether as beyond any practical politics.

XIII.—The Permanent Settlement.

57. While discussing the financial relations of the central and provincial Government allusion has been made to the Permanent Settlement, which is an outstanding feature in the revenue administration of this province. We feel that no apologies are needed in reverting to this topic in view of its importance. It is not proposed in the brief space at our disposal to dig into the historical details of its existence, but since there has been a demand in some quarters that the whole system should be done away with, it seems desirable to emphasize that such a course is not within the range of practical politics and will upset the whole administration in a way that has no relation to the supposed gains consequent upon its abolition. That distinguished administrator, Sir R. C. Dutt, advocated its extension throughout India in order that chances of dreadful and devastating famines may decrease. We are content to say that the Permanent Settlement has worked well, on the whole, and has given satisfaction both to the raiyats and landlords. The production of a distinguished and loyal class of Zamindars is in itself an asset of no small value and will for all times provide the necessary element of stability in whatever form the future Government may be constituted. It also requires no elaborate argument to prove that when the landlord has permanent property in the soil it will not be worth his while to neglect it and amicable arrangement with the tenants must follow. In Bihar, where, in the past, the tendency was to conceal wealth, and lands were purposely thrown out of cultivation and unfair

means habitually resorted to to avoid an increase of rental, the Permanent Settlement did, undoubtedly, prove a blessing.

58. The landlords have everything to lose and nothing to gain by revolutions. This was even seen in 1857 when the malcontents literally melted away before the impassive demeanour, want of sympathy and silent loyalty of the Zamindars. While public tranquillity in this province was hardly ruffled with the exception of the rebellion by Koer Singh, in others with the temporary eclipse of British authority the fabric of administration carefully built up very nearly collapsed.

59. In times of famine and scarcity the co-operation of the Zamindar has been invoked and ungrudgingly afforded. It is the opinion of several experts that where there are large Zamindaris scarcity is met, relief works are set on foot, and supplies transported with greater facility than in provinces where settlement has been made with each raiyat directly. The Tirhut famine of 1873-74 is an instance in point.

60. The question also arises whether the abrogation of a measure which was conceded not only for the sake of its supposed benefit, but because of stress of prevailing circumstances is possible a century and a half later, when it has become sanctified by the growth of so many time-honoured practices, usages and conventions. When the settlement was fixed the highest rate of the preceding few years was levied and it was no mere generosity by which the figures of assessment were arrived at. Looking at the legal aspect of the question it would appear that the Permanent Settlement is in the nature of a contractual agreement and it is very doubtful whether legislative enactment can revoke a solemn pledge guaranteed not only by the Government of the time but by successive sovereigns and their Representatives. Time after time assurances have been given that this system of land revenue would remain irrevocable and unalterable in the areas where it extends. By now the people have become so used to the idea of its being a permanent institution that any suggestion of a change would be utterly unbelievable. In this province 75 per cent. of the people are as much raiyats as they are Zamindars and their interests are identical and tampering with these interests is obviously fraught with more than mere dangerous consequences.

61. It is a fallacy that the landlord has benefited at the expense of the raiyat. Our belief is that in a country where social distinctions and inequalities still retain their attraction for the masses, the maintenance of some large Zamindars is quite in accordance with the local feeling and has political advantages which compensate or at any rate balance its defects. It has been the means of allaying doubts and apprehensions and has proved an incentive to good behaviour and something beyond

mere passive loyalty in troublous times. The creation of indefeasible rights has resulted in the extension of cultivation and general improvements in the habits and comforts of the people and for the increase of revenue due to other sources the permanent settlement must largely get the credit. To attempt to alter it would be to cut at the root of the entire social fabric and throw everything completely out of gear.

XIV.—Conclusions.

62. We have endeavoured to indicate how responsible government in our province should operate in which the Executive is responsible to the Legislature and the Legislature to the electorate. We have also indicated that decentralisation should proceed to the extent as to make for real autonomy. It is not possible to present a cut and dried system which political scientists would theoretically approve, but we have aimed at indicating the general outlines of a constitution which, we consider, would be the most suitable to this province of ours. If at places we have seemed to deviate from certain well recognised practices and principles it has been only to fit the actual conditions with a workable scheme and ensure that in the result the constitution would work harmoniously without unnecessary shocks and jars. Our financial difficulties which we have kept in the forefront of our recommendations must be sympathetically handled before the further instalment of reforms comes. We also attach a great deal of importance to our suggestions of a Second Chamber, the amalgamation of the Oriya-speaking tracts, the formation of a separate Oriya province and the consequent inclusion of permanently settled districts of the U.P. in this province, and we hope that these will receive serious consideration and that the inauguration of the new constitution will find a solvent province equipped with the machinery of democratic government fulfilling its great task of serving and administering a teeming population imbued with a faith and purpose that have not become exhausted or disillusioned.

63. Before we conclude we feel it our duty to speak a few words about all those who have assisted us in our work. Our thanks are due to Mr. J. A. Hubback, I.C.S., Special Officer on Reforms, who was so helpful to us at all times and who supplied a store of information on every point that we required. We have also to express our thanks to Mr. J. Bowstead, I.C.S., who acted as our Secretary for some time, and to Mr. K. E. Lewis, who has been associated with the Committee throughout in various capacities and rendered ungrudging services.

64. We are especially indebted to Mr. R. Jagmohan, I.C.S., for the exceptional services he has rendered us in preparing the draft of the report. He displayed rare skill in handling facts and figures and brought to bear on his task remarkable ability,

We are sure but for his admirable patience and perseverence it would indeed have been well nigh impossible for the document to be ready within the short time allotted to him.

65. Lastly were we to end without giving expression to our sense of gratitude to Raja Bahadur of Amawan, the Chairman of our Committee, who showed extreme patience throughout the lengthy and controversial debates and whose fairness kept everyone satisfied and who did not hesitate to sacrifice his personal convenience at all times, we would certainly be failing in our duty.

It is, however, to be very much regretted that in spite of all efforts on the part of the Chairman the report could not be made unanimous.

HARIHAR PRASHAD NARAYAN SINGH, *Chairman.*
CHANDRESHVAR PRASHAD NARAYAN SINGH.
LAKSHMIDHAR MAHANTI.

DISSENTIENT REPORT
BY
RAI BAHADUR SARAT CHANDRA ROY, M.A., B.L., M.L.C.,
MEMBER, PROVINCIAL COMMITTEE, SIMON COMMISSION, BIHAR AND ORISSA

1. *Points of agreement with the Majority Report.*—I regret I have to write a separate note as I happen to differ from my colleagues on a few important points. I am in general agreement with Majority Report with regard to the need for the abolition of Diarchy and the granting of full provincial autonomy, the position and powers of the Governor, the financial and other relations between the Central Government and the Provincial Government and the division of sources of revenue between them, the respective spheres, legislative and administrative, of the Central Government and the Central Legislature, on the one hand, and the Provincial Governments and Provincial Legislatures, on the other, the introduction of responsibility in the Central Government, the reduction in the size and increase in the number of constituencies, election of members to the Provincial Legislative Councils by the direct method and the secret vote by ballot, the position of the services, the need for the separation of the judiciary from the executive, and the method of future amendments of the constitution.

2. As for the separation of Orissa, I am in favour of it and would recommend the amalgamation of Chota-Nagpur with Orissa, if for any reason the aboriginal tracts cannot be formed into a separate Province by themselves, for which, as I shall show, there is a strong case. I would recommend that the numerical strength of the Provincial Legislature should be raised to 150 and not 125 as recommended in the Majority Report.

3. *Main points of difference with the Majority Report.*—The principal questions on which I cannot agree with my colleagues are the following:—
The creation of Second Chambers for the Provinces, the extent of the franchise, communal representation and separate electorates, increased representation of landowners, and above all, the administration of the aboriginal tracts.

4. I shall now proceed to state my considered views on each of the above subjects.

PROVINCIAL SECOND CHAMBER.

5. *Second Chambers for the Provinces—not required.*—In my opinion the creation of a Second Chamber for the Province is neither desirable on policy nor expedient on financial and other grounds.

6. Something might perhaps be said in justification of an elected Second Chamber composed of men of ripe age and experience, light and learning such, for instance, as ex-Judges of the High Courts, ex-Chancellors and ex-Vice-Chancellors of Universities, ex-Ministers, ex-members of the Central Legislature and of Provincial Legislatures, who have served as such for a continuous period of 10 years or more, and the like. But as for a Second Chamber composed mostly of big landlords and commercial magnates, capitalists and hereditary title-holders, I cannot see any justification for its creation. In a Province in which the simple aboriginal tenantry may form a considerable proportion of the population, the introduction of a Second Chamber, composed mainly of landlords and capitalists and title-holders will cause justifiable suspicion and alarm. A Senate to be drawn mainly from the aristocracy of wealth and rank is not quite the same thing as a Senate that might be drawn from the aristocracy of character, intellect and wisdom.

7. As for the few non-landlord members of the Provincial Second Chamber proposed in the Majority Report, they will presumably be drawn from among the best men who might otherwise sit in the Lower Chamber, and, as a consequence, the Lower Chamber will be considerably weakened.

8. Lastly, the machinery of Government is already top-heavy, and the further extra expenditure involved in a provincial Second Chamber is, in my humble opinion, not justifiable at all.

9. With the powers proposed to be reserved to the Governor, and increased sense of responsibility which increased powers are confidently expected to induce in the members of the Legislative Council, there is, I think, little likelihood of a breakdown of the new constitution, and much less of its being adversely worked in the interests of any particular class, community or creed.

10. For the Council of State, I would recommend the direct method of election, the electors being composed only partly of persons representing landed interests, commercial interests, mining interests, and income-tax assessees, and, for the rest, persons of light and leading, ripe experience and wisdom such as ex-Judges of the High Courts, retired District Judges and District Magistrates, Vice-Chancellors and Fellows of Universities, Principals of Colleges, present and past Chairmen and Vice-Chairmen of District Boards and Municipalities, holders of the titles of Mahamahopadhyas and Shamsululemas, present and past members of Provincial Councils, and so forth.

FRANCHISE.

11. *Extension of the franchise desirable.*—As for the franchise for the Provincial Councils, I am in favour of widening it as much as practicable. The arguments based on the extent of interests appears to me to be fallacious. Government exists for the greatest good of the greatest number and not for the greatest good of the largest interests in land or capital enjoyed by the smallest classes. The test of the value of any constitution that may be evolved will primarily be how far it can meet the material, intellectual and spiritual needs of the vast majority of the population and not merely or mainly those of a microscopic, albeit, powerful, minority.

12. My reasons for recommending an extension of the franchise are:—
(1) A wider franchise will minimise the facilities for corruption and

manipulation of the electorate. (2) It will hasten the political education of the masses and ensure the introduction and passing of progressive social, agrarian and industrial legislation. (3) It will help to raise the position and status of the bulk of the aboriginals and depressed classes. Experience shows that those classes appreciate the value of the vote as much as, if not more than, their more civilised and well-to-do neighbours. Having regard to their extreme poverty, the franchise qualifications in their case should be as low as possible. I would suggest that the payment of any house-tax or chowkidari tax or public works cess by an aboriginal family should qualify every adult member of the family for the franchise. Mundari-Khuntkattidars and Bhuinhars, who occupy the highest social rank and possess the largest interests in land and the greatest social influence among the aborigines of Chota-Nagpur, have for that very reason to pay only nominal rents and are thus mostly excluded from the electoral roll. In their case, the occupation of a permanent house should entitle every adult Bhuinhar and Khuntkattidar to the vote for the provincial Council as also for the Legislative Assembly. As regards non-aboriginal raiyats I would recommend the reduction of the rent qualification for franchise by half.

Communal Representation.

13. *Communal representation not favoured on principle.*—I consider communal representation to be bad on principle. But having regard to the insistent demand by a large section of our Muhammadan fellow-countrymen for such representation in their case, I would agree that so long as the majority of the elected Muslim members of the Council in any province may favour such representation, a number of seats in the Legislature and local bodies proportionate to their population in each district or division may be reserved for them. In fixing the proportion of Muslim seats, however, I would agree not to reduce the proportion of representation in the Council, as a whole, that the Muhammadans actually enjoy under the existing arrangement.

Separate Electorates.

14. *Joint Electorates recommended.*—I am, however, opposed to separate electorates for the Muhammadans or for any other minority community, as this, I believe, will retard the growth of Indian nationalism. Joint electorates with reservation of seats will, I think, minimise, to some extent, the evils of communal representation.

15. If, however, it be decided to reserve seats in the Legislative Council for any minority community, I think the aboriginal and depressed classes should also have seats reserved for them in districts where in point of voting strength they are in a minority. The domiciled Bengalis form a very important minority in the Province and should, in justice and fairness, have one or more seats reserved for them from each Commissioner's Division.

Communal Considerations in the Services.

16. *Communal preference in the Services, and safeguards for Muhammadan interests.*—As a general principle, offices intended for the service and benefit of the public as well as promotions and preferments should go by merit and not by favour. I am therefore not in favour of any preferential treatment in these matters to any community except the most backward, namely, the aborigines and depressed classes. It will be an insult to our Muhammadan brethren of Bihar to suggest that they are at the present day in any way behindhand in educational attainments or in intelligence in comparison with their Hindu fellow-countrymen. And they would therefore, I think, be no losers if public offices go by merit and not by special considerations of race and creed. I

would therefore advocate a system of competitive examinations, open to all qualified candidates who are natives of the Province or domiciled in it, for recruitment to Government services by any Public Service Commission that may be appointed. I do indeed consider it desirable and necessary that the Muhammadans and the Aborigines and Depressed classes should be given their fair share of representation in Government services in a manner and by a method which may not result in impairing the efficiency of the services. And in order to facilitate this, I would not fetter the discretion of Government in departing in exceptional cases from the rule of absolute competition or in making such equitable concessions as raising the maximum age-limit for admission to Government service in the case of backward tribes. I agree that the education, culture, religion and personal laws and charitable institutions of the Muhammadans should certainly be fostered as much as those of the Hindus and other communities. I would recommend the adoption of the three safeguards for the protection of minority communities laid down in para. 23 of the Majority Report.

Representation of Landholders.

17. As regards the separate representation of landholders in the Councils, I do not think there is any justification for the continuance of such a system any longer. But even if Parliament decides to continue separate electorates for them for a limited period yet, there can, in my opinion, be no justification whatsoever for giving them a larger representation than they at present enjoy. Besides a certain number of landlords returned to the Council by their own special electorates, a number of them also get themselves elected by the general constituencies. And thus the landlord class happens at present to be rather over-represented in the Bihar and Orissa Council. As we read at page 126 of the *Bihar and Orissa Government Memorandum* (*Bihar and Orissa* 116-1) submitted to the Commission, the landlord class was represented by 38 members out of a total of 76 elected members in the election of 1920, by 32 members in that of 1923 and by 27 members in the election of 1926. The *Administration Reports* of Bihar and Orissa estimate the strength of the landlord element in the Council at a higher figure. Thus in the Administration Report styled *Bihar and Orissa in 1921*, page 15, we read that in the election of 1920 out of 76 elected members as many as 45 represented the landowners. I am decidedly of opinion that if separate representation of landlords is abolished and landlords are obliged to seek election by the general constituencies, better feelings will be restored between them and their tenants and the people in general.

18. *The Permanent Settlement.*—In this connection, I may note that the Committee need not, in my opinion, enter into the question of the inviolability or otherwise of the land revenue of Bihar. There is something to be said on either side of the question. But I doubt whether the fundamental right of every Government and Legislature to make any new law it thinks suitable or repeal any old law made by its predecessor can be interfered with by statutory provision.

Administration of the Aboriginal Tracts.

19. *Disadvantages of the present union of the Aboriginal tracts with Bihar.*—The results of the past nine years of the existing administrative arrangement by which Chota-Nagpur and the Santal Parganas remain tacked on to Bihar has been that the Aborigines, far from having derived any advantage from such an arrangement, have been labouring under positive disadvantages. The Bihar and Orissa Government in their *Memorandum on the Backward Tracts* (page 15) admit this. The Government Spokesman, Mr. Hubback, in his evidence before the Commission on the 17th December, 1928, admitted that under the present system of the administration of the aboriginal tracts, " the interests of the

aborigines are liable to be neglected " and that " there would be advantages in a separate province " for the aborigines. Failing that, Mr. Hubback considers that, at any rate, a larger representation of the aboriginals in the Legislative Council would be desirable. The evidence of the witnesses, examined by the Commission on the 17th December, 1928, emphasis the necessity for a change. On this point, the evidence of the Catholic Bishop of Ranchi deserves the utmost consideration, for the Catholic Church has the largest following among the aboriginals, and the Catholic Missionaries in Chota-Nagpur mix most intimately with their people and know the wishes and needs of the people thoroughly. Some of the disadvantages from which the aborigines suffer under the present administrative arrangement have been pointed out by the Memoranda and the witnesses and need not be repeated in detail.

20. Generally speaking, the aboriginal tribes have certain requirements and needs which people of a different race and different mentality and different social system fail to appreciate. The aboriginals complain that under the present arrangement, they have been unable to secure such educational and other institutions as are necessary for their educational, social and economic progress.

21. Although there has been generally a sincere desire on the part of most British officials to deal justly and equitably with the Aboriginal tribes, Bihar, which is the predominant partner in the present administrative unit and, next to it, Orissa, appear now inevitably to monopolise practically the entire attention of the Government and the Legislature. With the introduction of the Reforms, the officials have naturally become too much concerned with the support or opposition of the majority in the Council and have had to meet, as far as possible, the wishes of the majority, and for this and other reasons the aboriginals and their interests necessarily receive less and less attention as years pass by, and their needs are little studied and much less attended to. And whatever official sympathy is still left for them is more passive than active.

22. If the authorities are now hardly in a position to give them much active help, the aborigines themselves or rather their representatives in Council are in a far worse position. The representation in the Council of the aborigines by one or two out of a total of 76 elected members is really farcical. And none of their accredited representatives has ever had a place in the cabinet. The majority of the members of the Bihar Council and Bihar Government have no knowledge of the customs and habits and needs of the Chota Nagpuris. Except the Governor and the European members of the Executive Government, the other members of the Government generally belong to the landlord class and cannot in general be expected to feel any particular sympathy towards the aspirations and main grievances (which are agrarian) of the aborigines.

23. Again, owing to the cultural and racial divergencies between Bihar, on the one hand, and the aboriginal tracts, on the other, the administrative union of these two areas has not created and cannot create in the near future anything like a *common nationalism*. And there can never be any future for the aborigines if they are doomed to perpetual hopeless minority in a council whose interests and racial affinities are other than their own, and the majority of which are ignorant of their customs and habits and are likely to be apathetic, if not unsympathetic, towards their claims and aspirations. As an inevitable result their interests are bound to be seriously neglected.

24. For these and other reasons the aborigines justly complain that the artificial union of Chota-Nagpur and the Santal Parganas with Bihar has been rather an obstacle than a help to their political, social, economic and educational progress. In this connection I beg to draw particular attention to the address presented to the Commission by the Chota-Nagpur Improvement Society, which is the most influential association of aboriginals in the province.

25. *Three alternative Schemes possible.*—To remedy this state of things three alternative schemes appear to be possible, namely:—

I. The separation of the aboriginal tracts from Bihar and their formation into a separate province under a sympathetic and well-informed administrator directly subordinate to the Governor-General.

26.—II. The formation of a separate Province composed of the aboriginal tracts and the Oriya-speaking tracts, with certain safeguards for aboriginal interests.

27.—III. Constituting the aboriginal tracts into a Sub-Province under a major Province.

FIRST SCHEME.

28. *First scheme—most suitable.*—Of these three alternative schemes, the first appears to be by far the most satisfactory. It answers more completely and more simply the just and equitable demand for the effective protection of the interests of the aboriginals. Whereas the aboriginal tracts of the province have no affinities whatsoever with Bihar and the gulf that separates the two populations racially, culturally and economically is practically unbridgeable, at least for a long time to come, these aboriginal tracts as between themselves are bound together by ties of a common culture, common hardships and common grievances and a growing consciousness of a common nationalism and organic life. It is generally admitted that besides satisfying popular sentiments, the creation of more or less homogeneous areas as administrative units is essential for the smooth working and success of any scheme of self-government. Historical and political considerations also would support the arguments for constituting the aboriginal tracts into a separate province. The Santals of the Santal Parganas had migrated a little over a century ago from Chota-Nagpur to their present home and the Oraons and some other aboriginal tribes of Sambalpur also migrated to that district from Chota-Nagpur.

Against this scheme three objections are possible.

29. (1) *Objections Refuted.*—The main objection that may be urged against this scheme is the financial difficulty, namely, that the revenue from the aboriginal tracts is not sufficient by itself to justify and support a separate administration.

To this argument Chota-Nagpur has the following cogent answers to make:—

(i) *Industrial India owes much of its development to the mineral wealth of Chota-Nagpur and to the establishment of the steel industry at one of its principal industrial centres, viz., Jamshedpur. The benefits from these are shared by the whole of India, while the yield to the provincial revenue under the present system is nothing at all. This fact would give the proposed Province made up of the aboriginal tracts a strong claim for assistance from any central fund that may be established for distribution among the poorer Provinces (as contemplated by Mr. Layton, the financial adviser to the Commission). The advantages to India from these industries of Chota-Nagpur have been very great in the past, and, with the further development that may be expected in the near future, they will be of ever-increasing advantage to the whole of India.*

(ii) *Even if there had not existed this natural and irrefutable claim for substantial financial assistance justice would appear to demand that the Central Government in consideration of their special responsibility for the more backward population of the country and in consideration of the substantial benefit that these Backward Tracts will derive from their formation into a separate homogeneous administrative unit, should make up any deficit that may occur in the revenue of the proposed Province.*

(iii) *The untapped mineral resources of Chota-Nagpur, when properly explored and utilised, as can be done better when the attention of Government is solely devoted to the aboriginal tracts, will considerably add to the revenues of Chota-Nagpur.*

The other possible objections to this scheme need only be mentioned to prove their hollowness.

(2) As for the objection put forward in paragraph 52 of the Majority Report that "it would not be possible to find enough men to run a separate Province," it has never been suggested by the aboriginals or their well-wishers who press for a separate administration for the aboriginal tracts, that all the offices in the proposed administration should be manned by the aborigines. As the Bishop of Ranchi in his deposition before the Commission explained, "They must have their own administration,..... Not that the aborigines can by themselves administer the Province and furnish *all* the officials. When I speak of their Province I mean a separate administration for them."

(3) As for the objection taken at paragraph 53 of the Majority Report that the non-aboriginal population of Chota-Nagpur appear to number 42 per cent. and their interests may be neglected by the creation of a separate province, a sufficient answer to this has been furnished in their evidence by Messrs. Hallett and Hubback, who, in answer to questions from Babu Chandreshvar Prashad Narayan Singh, pointed out that this 42 per cent of the population "are mostly all aborigines in origin whose interests are not in any way adverse to the interests of the aboriginals," but that of this there are only about 10 per cent., mostly alien Hindus, whose interests are "frequently in opposition to the interests of the aborigines."

(4) As for any possible objection that the aborigines still require special protection at the hands of the Executive authorities, it may be pointed out that the creation of a separate province for the aborigines will spare them the humiliation of being treated as an inferior race requiring special protections which would abase their new-found dignity of spirit. In comparing the present system with its "Special protections" under the "Backward Tracts" Notification (under section 52A (2) of the Government of India Act) with the proposed Separate Province for the aborigines the Bishop of Ranchi very pertinently referred to this "inferiority complex" and very emphatically observed,..... "I certainly prefer the latter course (separate administration) because if there are special protections for you it does constantly make you feel that you are inferior to others; if you are separated then there is no longer that sense of needed protections."

(5) As for the objection taken in paragraph 51 of the Majority Report on the ground of the smallness of the size of the proposed aboriginal Province, my colleagues are mistaken in thinking that it is proposed to constitute the Chota-Nagpur Division alone into a separate Province. As a matter of fact it is meant to include the principal aboriginal tracts of the present Province. It is not a fact that the area of the aboriginal tracts in the present Province of Bihar and Orissa is insignificant or their population inconsiderable. The "Greater Chota-Nagpur," as these tracts (together with the Feudatory States administratively joined to Orissa) are named in the *Census Report of Bihar and Orissa for 1921*, has an area of 66,600 square miles, being thus much more than that of England and Wales put together (58,344 square miles). The total population of this "Greater Chota-Nagpur" is as much as 12,383,376, being thus only slightly less than that of the Province of Burma (a little over 13,000,000). The population of the Chota-Nagpur Division alone (viz., 56,53,023) is greater than that of the Province of Assam, which is only 50 lakhs.

There can be no constitutional objection to the creation of such a Province. There will be no serious dislocation of existing arrangements. The decrease in the area of the Bihar Province can be more advantageously

made up by the transfer to Bihar of one or more contiguous divisions from the jurisdiction of the present unwieldy area of the United Provinces. At paragraph 51 of the Majority Report, it is admitted that Bihar will not suffer if Chota-Nagpur is separated from it.

(6) Another objection that might conceivably be advanced is that if such minor Provinces have to be created in different parts of India over and above the existing major Provinces, the number of administrative units in India will become very large, and their areas small. In answer to this it may be pointed out that most advanced countries do multiply their administrative units. Centralisation is expedient when the culture and needs of the peoples are fairly uniform and the same laws can be applied throughout the country.

(7) Any possible objection to the effect that the formation of administrative units on a linguistic or racial and cultural basis may result in impairing Indian unity would be obviously fallacious. The administration of India, which is a continent by itself, is being carried on and has to be carried on by dividing it up into provinces. And it cannot be questioned that the more homogeneous a Province is in race, language and culture, the more successful its administration on popular lines is likely to be. A well-designed federal system on the natural basis of race, language, traditions and culture would appear to be the only system that may be reasonably expected to take India ultimately to the goal of complete *swaraj*. The success of the federal idea depends, not upon the degree of culture of the population of the province, but upon a spiritual force, upon the intimate association of men possessing common traditions, common history, and common hopes and aspirations. And there can be no question that Chota-Nagpur and the Santal Parganas (with Sambalpur and the Khondmahals) are as eminently homogeneous in every respect as the present Province of Bihar and Orissa is notoriously heterogeneous, as admitted in paragraphs 3 and 5 of the Majority Report.

30. *Superior advantages of the scheme.*—As I have already said, there can be no question as to the substantial advantages that will thus accrue to the proposed "Aboriginal" province. Its administrative head will devote his undivided attention to the homogeneous territory in his charge. He and his Ministers and Councillors will understand the local conditions, local customs and traditions and local needs, and the racial and tribal habits of life and thought far better than they can be understood at Patna. Executive and Legislative measures necessary or desirable in the interests of these Backward Tracts will be more promptly and ungrudgingly undertaken than is the case now, for at present they form only a neglected appendage to Bihar and Orissa. The wrong hitherto done to the aborigines and to their honour and progress as a people will be repaired. A separate administration and legislature of their own will enhance their "National" honour and self-respect and make their country a healthier, stronger and a more valuable member in a Federation of Indian Provinces.

31. As for Bihar, too, relieved of her union with the aboriginal tracts, she will be no longer hampered in progressing on her own lines by an unequal and unnatural union with peoples of lower culture who might otherwise serve as a perpetual drag on her cultural and political speed and form a discordant element in the body politic; and the aborigines of Chota-Nagpur and the Santal Parganas, on their part, will be spared the injustice of having their own interests subordinated to those of alien land-holding and capitalist classes whom they have always regarded with suspicion.

32. Even if there had not existed this unfortunate hereditary suspicion of alien landlords and their class on the part of the aborigines, any attempt to fuse these two irreconcilable cultures and interests would be necessarily fraught with disastrous effects on the weaker and less evolved party. Such an attempt, besides entailing serious injury to their existing

rights (which are now mere miserable remnants of their former extensive rights in land, etc.), will result in making the aborigines imbibe the baser elements of the culture of the predominant partners in the existing province and lose the better features of their own culture, retaining only its worst features.

SECOND SCHEME.

33. II. *An alternative Second Scheme.*—If, for any reason, it is not considered practicable to constitute the aboriginal tracts of the present province of Bihar and Orissa into a separate administrative unit by themselves, the next best scheme would be to unite Chota-Nagpur with the Oriya-speaking tracts and constitute "Orissa and Chota-Nagpur" into a Governor's Province. The claims of the Oriya-speaking tracts to be constituted into a separate province are generally admitted. And the reasons that would justify the administrative separation of Chota-Nagpur, too, from Bihar cannot be gainsaid. In these circumstances, if for any reason Chota-Nagpur cannot be given a separate administration, the next best thing for Chota-Nagpur would be an administrative union with Orissa. For, with Orissa, Chota-Nagpur may be somewhat more of an equal partner than with Bihar. Moreover, Orissa districts have a large aboriginal population, and the Feudatory States of Orissa are inhabited largely by tribes of the same stocks and similar culture and speech as the Mundas, the Oraons and the Santals of Chota-Nagpur, and their union under one administration would be more natural and calculated to be productive of better results than an unnatural union with Bihar. In the Chota-Nagpur districts of Ranchi and Singhbhum there is a certain proportion of Oriya-speaking population. Geographically and economically as much as ethnologically and sociologically, Chota-Nagpur has a close connection with Orissa. The quantity of rainfall in Chota-Nagpur affects the rivers of Orissa and her crops and the well-being of her people. The Governor of the proposed Province of Orissa and Chota-Nagpur might also very advantageously represent the Viceroy in his relation to the Feudatory States, and this will make for administrative economy.

34. In order to protect the interests of the aborigines the following safeguards, however, would require to be provided in any such scheme that may be adopted:—

(1) They may be given a voice in the Executive Government by the appointment of one or more Ministers from among the elected representatives of the aborigines.

(2) They may be given an effective voice in the administration by an increased representation in the Legislative Council proportionate to their population.

35. The reason for insisting on these safeguards, if the aboriginal tracts are tacked on to Orissa or any other part of the country, is that effective legislation, like effective administration, requires intimate knowledge of the conditions of the particular locality and population over which it is to operate, and such knowledge can only be possessed by the people of the locality or those who are in intimate and constant touch with the life of the people concerned.

The other alternative schemes need only be mentioned to be rejected.

POSSIBLE THIRD SCHEME.

36. III. *A possible Third Scheme—not satisfactory.*—The third alternative scheme mentioned above by which the aboriginal tracts might be constituted into a Sub-Province, though it would be an improvement on the present arrangement, is much less satisfactory than the first two schemes. Under this third scheme Bihar and the aboriginal tracts will remain united under one Governor, who will have to make himself familiar with and take an active interest in both the parts. Now, the problem and needs of Bihar and those of Chota-Nagpur are so

numerous and of such a vastly different nature that it would be almost a superhuman task for any Governor, however sympathetic and capable, to do justice to the task. The Deputy of the Governor, who will have greater facilities for studying and understanding local conditions, local customs and traditions, and local needs, might minimise the disadvantages to some extent. The experiment of a Deputy Governorship has, however, never been tried before in India. The disadvantage of the Deputy Governor's position as the subordinate of the Governor of Bihar and subject to his interference in various matters is bound to render the smooth working of the system and the proper administration of the aboriginal tracts difficult. Conflicts may also occasionally arise between the legislature of the main Province and that of the Sub-Province. For these and other difficulties of the scheme, all that can be said in its favour is that in comparison with the present hybrid administrative arrangement, it would be the lesser of two evils.

IMPOSSIBLE FOURTH SCHEME.

37. IV. *Impossible Fourth Scheme.*—A fourth scheme which might possibly be suggested in some quarters, namely, that the aboriginal tracts might be withdrawn from the operation of the Reforms and placed under the direct rule of the Governor of Bihar and Orissa through the Commissioner of the Division, is open to serious objections and is hardly worth consideration. In fact, it would be an administrative anachronism. Among many cogent objections against such a retrograde measure, the following may be mentioned:—

(1) In the first place, there appears to be no justification for withdrawing from the aborigines the right of directly electing their representatives to the Legislative Council—a right which, though extremely meagre, they have enjoyed since 1920.

(2) In the second place, democratic institutions are no new things to the aboriginals, but are indigenous to them and suited to their genius. The result of the three general elections for the Reformed Councils since 1920 shows that the aboriginal voters have evinced greater enthusiasm for the Council elections than the more advanced peoples of the Province. The proportion of the votes polled in the aboriginal districts of the Province were higher than in most of the advanced districts of Bihar proper. The proportion of aboriginal voters who attended the polling stations was greater than that of the Hindu and Muhammadan voters in Chota-Nagpur. Aboriginal voters, at least in the principal districts, would also appear to have exercised their rights of voting with proper discrimination.

(3) It cannot be urged in support of the plea for the bureaucratic administration of the Commissioner in the aboriginal area that such rule in the past has promoted to the utmost the material and the moral welfare of the aborigines or particularly hastened their social, economic and educational progress. Much of the progress they have made is due to missionary activities, and a part only to British administrators of a former generation, as well as to the philanthropic activities of Indians, and latterly, to the exertion of aboriginal leaders themselves. True, the principal, if not the only noticeable features of the rule of the executive in the aboriginal tracts are the laws against inalienability of their lands and in some places against usurious interests on loan. But such protective measures unfortunately came too late and might as well be adopted (as indeed they are bound to be adopted or continued and strengthened) when the aborigines are placed under an administration and given a legislature in which they will have a dominant voice. In Chota-Nagpur, the aboriginals have lost most of their ancient rights in land as peasant proprietors through the neglect in the past by the executive officials and the legislature and the judiciary of a study of the history of land-holding in that part of the country.

The law against inalienability of land was introduced only recently when it was too late, and any special law against usury is yet to come.

38. In fact, beyond a partial protective policy, Government have so far hardly formulated, much less systematically pursued, any constructive policy of social and political uplift for the aborigines. Thanks to the Christian missionaries and other non-Government agencies and the education imparted through Government and mission schools, the aborigines of the Province have now outgrown the stage of spoon-feeding at the hands of a paternal Government. Neither the direct rule of the executive without any effective voice of their own in their administration and legislation, nor their so-called representation in the Legislative Council by two or more "nominated" members can any longer meet their wishes or their needs. They too hanker after a substantial measure of self-government. And the form which they desire it should take is that of an aboriginal Province under a sympathetic Governor well acquainted with the mentality and sociology of backward peoples, because such knowledge is essential for sympathetic and progressive administration. And the Governor is to be assisted by one or more Ministers for the aborigines and an elected legislative council. In any scheme that may be finally adopted for the aboriginal tracts, I consider it essential that provision should be made for a substantial measure of representation of the aboriginals in the Provincial Council and some representation in the Legislative Assembly.

Conclusion.

39. *Conclusion.*—To sum up: For the reasons set forth above, I am of opinion that the claim of the aboriginal tracts of the present Province of Bihar and Orissa to be constituted into a separate Province directly under the Governor-General is most reasonable and legitimate, and most suitable for the social, economic, educational and political advancement of the people. Failing such an arrangement, Chota-Nagpur may be united with the Oriya-speaking tracts and formed into a separate Province in which the interests of the aboriginal people may be safeguarded by giving them in the Legislative Council increased representation at least proportionate to their population and a voice in the Cabinet through one or more Ministers appointed from among their elected representatives.

40. The late European war, travel in and outside India, foreign Christian missions and political and politico-religious movements, education and a taste of local self-government in the District Boards and Municipalities, and in the Reformed Councils, have unleashed many forces and created many aspirations, and if they can find neither satisfaction nor even self-expression in the Council and in a constitutional manner they may perhaps seek it elsewhere and in other ways. And there may not improbably grow up subterranean and extra-parliamentary organisations of sufficient power which may seek to force the hands of the authorities and wrest from them more drastic constitutional changes. Already out of sheer despair of improving their material condition under the existing administrative arrangement, a section of the Tana Bhagats among the aboriginal Oraons have joined the "non-co-operators" and indications are not wanting that if the present state of things continue, other aboriginals too may before long go to swell the ranks of the "disaffected."

41. Finally, I have great pleasure in endorsing the expression of thanks, in paragraphs 63-65 of the Majority Report, to Messrs. Hubback, Bowstead and Jagmohan, and to the Raja Bahadur of Amawan and Mr. Lewis.

Sarat Chandra Roy.

Ranchi.
29th August, 1929.

MINORITY REPORT.

To the Right Honourable Sir JOHN SIMON, P.C., K.C.V.O., K.C., M.P., Chairman, Indian Statutory Commission, London.

SIR,

WE have the honour to forward herewith the Minority Report of the Committee appointed by the Bihar and Orissa Legislative Council.

We greatly regret the delay in its preparation, which was due to the unfortunate circumstances described in the Report itself. The despatch of the Majority Report without our knowledge necessitated the publication of our Report as a separate volume.

We have the honour to be,

Sir,

Your most obedient Servants,

SYED MOHAMED ATHAR HOSAIN,

and

SYED MOBARAK ALI,

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Legislative Council,
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INTRODUCTION.

We regret that we are unable to sign the Majority Report, as our Hindu colleagues who have signed it have now, by drastic last minute changes, rejected *in toto* most of the points which we have throughout emphasised, and which we believed some of them at least to accept, as demanding sympathetic consideration in order to safeguard adequately the vital interests of our community.

These points are set forth clearly in the Resolution of the Indian Moslem Conference, held at Delhi under the presidency of His Highness the Aga Khan, a copy of which forms an annexure to this note.

We, on our part, have throughout been anxious, in a willing spirit of compromise to explore any possibility of reconciling, for our province, the different standpoints of the two major communities; but our Hindu colleagues have now, by their eleventh hour decisions, left us no alternative but to restate our own original convictions, which have only been strengthened by the turn which events have now taken.

I.—Working of Dyarchy.

In our opinion the form of Government adequately described by the term "dyarchy" has worked and is working satisfactorily in this province. The Ministers have had no occasion to ask for the appointment of a financial authority to settle the allocation of funds between the transferred and reserved departments and their relations with their indefatigable Secretaries have been cordial throughout. We do not subscribe to the view that the success of dyarchy has been mainly due to the support of the official *bloc* in the Legislative Council, and it must be obvious that in a Council of 103 members the success of the Ministers in shaping and carrying through their policy over a period of years must have rested on a more secure foundation than the regular attendance of the official members, who included Secretaries and Heads of Departments appointed with their concurrence.

2. We gladly recognise, however, that without the loyal and ungrudging services rendered to the Ministers by the permanent officials, coupled with the readiness of the latter to supply helpful information and advice whenever these were asked for by non-official members, this province's record of constitutional progress could not have been attained.

3. At the same time, whilst appreciating the success of dyarchy, we would point out that the minority communities, who up till 1925 had ranged themselves with the majority community, came to realise from bitter experience how dangerous it was for the minorities in India to be left to the tender mercies of the majority and that, in order to secure even the

legitimate rights of a minority, effective safeguards were essential. In the debate on the Report of the Muddiman Committee the Muslim members of the Council referred to the insecurity of their position under the present form of Government and, as a perusal of the proceedings will show, made their criticisms and apprehensions known in no uncertain voice.

II.—Electorate.

4. We are in substantial agreement with the conclusions of the local Government, expressed at page 1 of their memorandum, to the effect that no advantage can result from the general lowering of the franchise. We agree that the present inequality as between the tenant who pays cash and the tenant who pays produce rent should be removed, and strongly support the criticisms of the local Government that " the high qualification for the landholder's vote restricts unduly the franchise for these special constituencies, and excludes considerable numbers whose substantial stake in the province was intended to be represented in these constituences."

The total electorate for the five seats reserved to landholders is 389, whilst the electorate for the one seat allowed to the European constituency is 1,959. When it is remembered that nearly 75 per cent. of the provincial electorate can be described as petty zamindars and tenants, we consider that there is no justification for a landlords' constituency having on an average less than 80 voters; and we recommend that the franchise qualifications for each of these special constituencies should be lowered so as to bring at least an average of 200 voters on to the electoral roll. No elector, however, should be allowed to vote in both a general and a special constituency.

5. We would maintain the existing machinery for recording votes in the general constituencies and insist on the special constituencies being brought into line, as we think that the privilege of voting by post is liable both to misunderstanding and abuse.

6. When these questions are taken up the present unwieldiness of the Muhammadan constituencies should be investigated, as there would appear to be little justification for the area of these ranging from 2,500 to as much as 27,000 square miles.

7. We are voicing the unanimous wish of our community in this province when we press for the maintenance of separate electorates for Muhammadans. We cannot do better than quote paragraph 6 of the memorandum on the minority communities prepared for the Statutory Commission.

> " It has been suggested that instead of electing the Muhammadan members of the Legislative Council by separate electorates entirely composed of Muhammadans, an equal number of seats should be reserved for the Muhammadan candidates, who stood first among their community

in a poll taken of the votes of all electors, Muhammadan and others. The idea is that by this means Muhammadans of more moderate views on communal questions would be elected, and that a gradual approach would thus be made to greater civic unity. It is not, however, clear how the representation of Muhammadans by persons not acceptable to themselves would operate in this direction. If the principle that a community requires special representation is admitted at all, it is hardly to be supposed that the community will be content that its representatives should be chosen for it largely by the other community, against whose actions the safeguard is imposed.

"There is a further practical difficulty of some moment in the scheme.' 'In this province the areas of the Muhammadan and non-Muhammadan constituencies never coincide; and if joint electorates were introduced with the present areas of representation, the electors of three or four non-Muhammadan constituencies would be required to combine for the election of each Muhammadan candidate, and unless the elections for Muhammadans and non-Muhammadans were held separately, plural constituencies would be necessary everywhere. Thus, for example, the four Muzaffarpur rural non-Muhammadan constituencies would have to be formed, with the one Muzaffarpur rural Muhammadan constituency, into a plural constituency with five seats. A still more awkward conglomeration would be formed of the five Chota Nagpur rural non-Muhammadan and the one rural Muhammadan constituencies. In fact, since the urban Muhammadans of Chota Nagpur are electors for the rural Muhammadan seat, the urban non-Muhammadan Chota Nagpur constituency would have to be added to the hotch-potch. Thus one would have to require electors from the whole of the Chota Nagpur division of 27,000 square miles to elect seven members at once. There is already a general complaint that many constituencies are far too large to enable the candidates and the electors to get to know one another, and this defect would be vastly magnified by the scheme proposed. This difficulty would not be so serious where the numbers of the two communities are approximately equal, but it is almost insurmountable in Bihar and Orissa."

8. Practical experience of the working of joint electorates in the elections for local bodies convinces us that they inevitably secure not only the domination of the major community but the almost complete exclusion of the Muslims. In our province the results can be seen at a glance as there are separate electorates for the Legislative Council and joint electorates for the local bodies. In the elections for the former the communal issue never arises, whereas in the latter communal partisanship is introduced from the start of the election campaign, and the cry

that " the cow is in danger " invariably leads to the elimination of the Muslim candidates. Support for this view is lent by the evidence before the Muddiman Committee of Mr. Chintamoni, an ex-Minister of the United Provinces Government, who declared that the extension of separate electorates to the District Boards of the United Provinces had removed one cause of friction.

9. That there is a necessity for safeguards for minorities in general, and the Muhammadan minority in particular, and that our apprehensions of ill-treatment at the hands of the majority are in no way exaggerated, will appear from the following extracts taken from " Bihar and Orissa for 1927-28," written by Mr. J. W. C. Jackson, and published under the authority of the Government of Bihar and Orissa. The author says :— " In August, 1927, a very serious outbreak occurred in the Champaran district. The occasion of the rioting was the *Mahabirdal* procession, a Hindu festival, formerly of minor importance but in the last few years organised on a large scale to compensate low caste Hindus for the abstention from the *Muharram* which the Arya Samajists had imposed upon them. Its most objectionable feature is the close imitation of the *Muharram* emblems and procedure, an imitation which owing to the religious origin of the *Muharram* causes intense irritation among Muhammadans. The organisation of these processions in the north-west corner of the province by the Arya Samaj had been going on for some time and in Champaran printed notices had been issued among the villages calling upon Hindus to come into the town with spears and *lathis* for the performance and to quit themselves like men. At Bettiah, a subdivision of the same district, one of the largest sections of the procession deviated from the prescribed route into a narrow lane in which stood a mosque of the particular group of Muhammadans who had taken the strongest objection to the imitation of *Muharram* emblems. A riot ensued in which the Muhammadans, who numbered only four hundred, were overpowered, and the Hindus followed up their victory by firing the houses, dragging out the Muhammadan inmates and beating them to death. The significance of the Bettiah riot lies specially in the appearance of a new kind of provocation which appears to have been adopted elaborately by the Arya Samaj organisation. One consequence of those outbreaks has been to bring home to the Muhammadans their numerical weakness and the strength of the Hindu organisations, and this feeling has undoubtedly affected their attitude towards future Reforms."

10. We consider that the supporters of the system of joint electorate, who claim that it is the only means of developing a solid national feeling in India, show a lamentable ignorance of the deep feeling based on hard necessity behind the Muhammadan claim. The Statutory Commission has received evidence of the tyranny of high caste Hindus towards their low

caste brethren. As members of a different community with different traditions and ways of living, we cannot anticipate that in the days of Hindu ascendancy we shall be better off than the neglected and numerous low castes of Hindu society.

11. The speech of the late Lord Asquith during the debate in 1919 in the House of Commons on the Government of India Bill has expressed the Muhammadan point of view in the following words :—"Undoubtedly there will be a separate Register for Muslims. To us here at first sight it looks an objectionable thing, because it discriminates between people and segregates them into classes on the basis of religious creeds. I do not think this a very formidable objection. The distinction between Muslim and Hindu is not merely religious, but it cuts deep down into the tradition of the historic past and is also differentiated by the habits and social customs of the community."

III.—Safeguards.

12. We would strongly urge the necessity for the immediate provision of safeguards for minorities to be incorporated in the existing constitution, if this is to be maintained, or in any new constitution which may be evolved hereafter.

We would again quote from the Government memorandum on minority communities in Bihar and Orissa, which states :— "It is perfectly clear that the question of communal and territorial interests must frequently arise in the doings of the Council, and interests of Hindus and Muhammadans being frequently quite distinct. . . . . In these conditions the anxiety of minorities is both real and inevitable."

The memorandum of the local Government adds : "But it must be recognised that the removal of the official *bloc* has an important bearing on many other aspects of the constitution, e.g., the formation of a Ministry, the protection of Ministers, the question of law and order and stability of Government." And from the Central Government we have the support of Mr. Coatman, the Director of Public Information, who, in "India in 1926-27," writes :—"It is often said that Hindu-Muhammadan antagonism owes its present intensity to the Reforms, which by bringing the people of India face to face with some of the problems which they have to solve before they can enjoy responsible Self-Government, has precipitated the struggle for the powers and emoluments of office, and in fact, for the control of the machinery of the Government." In the same publication there is the following statement :—"It can hardly be denied that the Reforms of 1919 by forcing Hindus and Muhammadans to take thought of their respective position under a fully responsible Government of a democratic type with its tremendously powerful central doctrine of Government by majority have reinforced traditional enmities. The Hindus are generally content to accept all the implications of Government by Parliamentary

majority but the Muhammadans as the minority community insist on safeguards. Again the Hindus with their greater aptness for (English) study, their subtle minds and their far stronger economic position advocate the policy of *laissez faire* not only in finance and business pursuits generally but also in competition for admission to the Public Services. Here again Muhammadans dissent from these opinions, point to their backwardness in education and more material things and ask the Government to guarantee them a fair proportion of places in the Public Services and to protect them in various ways from the full vigour of the competition of the economically more powerful neighbours."

The Provincial Quinquennial report on Education for 1922-27 tells the same story. "Complaints have been received now and then that teachers foster feelings of communal hatred in their pupils by their advice, action and teachings. Sometimes acts of disobedience and strikes are justified on religious grounds and mutual ill-feeling and recrimination among Muhammadan and non-Muhammadan boys in a school are becoming every day more and more acute."

It should be added that there are very few Muslim teachers.

13. We cannot emphasise too strongly our belief that the only security which will be of value to the Muhammadan community is the incorporation of safeguards in a constitution which can only be altered by the British Parliament.

14. Official records show that the increase in communal feeling has been a concomitant of the Reforms. We do not wish to enumerate instances of communal aggression by the majority community though we cannot but draw attention to the alarming increase in the number of communal riots in the twentieth century. These were comparatively unknown in the nineteenth century but the following table is significant :—

Period.	*Number of Communal riots.*
1900-1920	13
1921	1
1922	2
1923-1927	112

We cannot ignore the indications that under a purely parliamentary form of Government the power will be concentrated in the hands of high caste Hindus who, from the point of view of the minority communities, can only be regarded as bigoted oligarchy. Without guarantees *similar to those provided in the pre-Reform era* the Muhammadan community cannot be assured of the protection which its importance and numbers give it the right to expect at the hands of Government.

15. In the present state of communal feeling bias has inevitably appeared in the Courts of Justice and we would invite

attention to a finding of the Honourable Mr. Justice Macpherson of the Patna High Court, recorded in a recent case tried in a court in the capital of this province by a senior Hindu Magistrate. The Honourable Judge of the High Court states :— ".....specially deplorable is it that owing to the fact that the accused was of one community and the Gazetted Officer and the Head clerk were of another, a communal flavour was recklessly imparted to the case; and thereupon so many Government clerks and peons, all belonging to the community of the accused, concertedly perjured themselves without scruple in support of the egregiously false and cruel defence evolved that the embezzler had made over the money to the Head clerk (a Muslim) .....and the (Hindu) Magistrate had not only rejected the simple and straightforward case of the Crown.....and accepted the transparently concocted case of the defence; but should have written a judgment not only intemperate and unbalanced, but so biassed that Counsel for the accused could only throw it over as impossible to support "

It is documentary material such as this which compels us to ask that the constitution should contain the following safeguards as the only means of maintaining in public life the Muhammadan heritage of culture and valuable traditions :—

(1) 25 per cent. representation in the Cabinet and the Legislative Council.

(2) Separate electorates for local bodies and the representation to be in the same proportion as in the Legislative Council.

(3) Effective representation on all autonomous bodies created and controlled by the Legislature.

(4) Representation of 25 per cent. in all the provincial services and appointments under local bodies.

(5) Provisions which will ensure to the Muhammadans an adequate share in grants-in-aid given by the State and the self-governing bodies.

(6) Guarantees for the introduction of the Urdu language and its use in all educational institutions and Government offices, including courts, and the protection of Muslim education, culture, religion, personal laws and charitable institutions.

(7) A provision that no Bill or resolution, or any part thereof, shall be passed in any Legislative or other elected body if three-fourths of the Muslim members of that particular body oppose such Bill or resolution or any part thereof on the ground that it affects the particular interests of the Muslim community. The question whether the matter is communal should be decided by the Governor.

We are convinced that the present unhappy phase of acute communal tension will end only when the clear demarcation of the just rights and privileges of each community has been made.

The protection of minorities is not a new principle. It is one enshrined in the constitution of many European countries and provides one of the strongest justifications for the continued existence of the League of Nations. We need only quote the example of Czecho-Slovakia to show how successful a provision in the constitution for the protection of minorities can be. This principle finds expression in the famous Proclamation of Queen Victoria made in 1858 and, in modern times, in the Instrument of Instructions issued under the Royal Warrant to Governors.

Representation in the Cabinet.

16. As for the securing of minority representation in the cabinet we would point to the examples of Canada, Switzerland and Czecho-Slovakia. The words of President Masaryk of the Republic of Czecho-Slovakia may be quoted from his book on " The Making of the State "—

" At the Geneva Conference between the delegations of the Prague National Committee a proposal was adopted without discussion as something self-evident, that a German Minister should be included in the Government. In a democracy it is obviously the right of every party to share in the administration of the State, as long as it recognises the policy of the State, and the State itself. Nay it is its duty to share it."

We are therefore fortified by modern constitutional practice in our insistence on a 25 per cent. representation in the Cabinet.

Representation on Local Bodies.

17. In asking for the safeguard of a guaranteed 25 per cent. representation in the local bodies we need only rely on the melancholy experience of the last two elections for the District Boards. At the first election we secured 54 and at the second only 34 out of a total number of 670 elected seats. A very large number of district boards contain not a single elected Muslim member.

In the session of 1922 the Muslims, realising the handicap of a joint electorate, urged the creation of separate electorates for the District Boards and were assured by Government that these would be established when the necessity and demand would arise. A Bill to secure this object has now been introduced in the Legislative Council and though it has the support of the Honourable Minister of Local Self-Government, Sir Ganesh Datta Singh, we fear that the hostility of the majority community to this form of protection will lead to its rejection in spite of the open admission of the Hindu leader of the Swaraj Party that the Muhammadans are very inadequately represented on the local bodies.

The importance of this safeguard can be realised when it is remembered that the local bodies have been made responsible for the Primary and Middle education of the masses, for Public Health, Sanitation and Communications. It may be noted that

the district boards are responsible for spending approximately 15 million rupees a year. In the rural areas, where 9 per cent. of the population are Muhammadans, only 3.8 per cent. of the Middle Schools and 4.3 per cent. of the Upper Primary Schools are available for them, while the expenditure on these schools is equally disproportionate to the Muhammadan population.

18. In the contest for Municipal seats the Muhammadans have had a similar experience. In the first and second elections they secured 163 and 157 seats, respectively, out of a total of 1,023 though the Muhammadan population in urban areas is 21.4 per cent. The provision of schools in these municipalities is generally inadequate and in 58 of them there is no Urdu Middle School. The proportion of expenditure on the buildings, furniture and books in the Urdu Municipal Schools is 1.9, 4.6 and 8.5 per cent. respectively of the total expenditure. The loss suffered by the Muhammadan community can be estimated by the fact that the annual expenditure of these municipalities is four million rupees.

This state of affairs is discussed in the third Quinquennial Review on the progress of Education (1922-27). "In the Middle stage the proportion of Muhammadans has always been low: this is no doubt partly due to the absence of facilities for instruction in Urdu in most middle schools."

The general position is also stated in the Government Memoranda (E.B. and O. 116-C.), from which the following quotation is taken: "The loss of influence in the District Boards, which the lack of such safeguard (obtaining in the Council) has permitted, has certainly been one of the grievances that have embittered the relations between the two communities. There is no evidence that separate representation has induced among the Muhammadans a feeling of satisfied security for the future." In conclusion we need only point out that Muhammadan representation on the executive of local bodies is even more inequitable than the representation on the Boards as a whole.

Representation in Government Services.

19. This is one of the most essential conditions as in no other country in the world have Government servants been given such powers to initiate and carry through important schemes for improving the general welfare of the nation. Government service in India has high traditions and commands the best brains in the country and we cannot emphasise sufficiently our view that adequate representation in the Public Services is at least as essential as adequate representation in the legislative bodies. The acceleration of the process of Indianising the services and the approximation to conditions of self-government make this question one of urgent and vital importance. We have no hesitation in saying that Statutory provision is the only means of securing this object which will command the confidence of the Muhammadan community. Whilst we are conscious of the

generous acceptance of this claim by Hindu patriots such as the Maharajadhiraja Bahadur of Burdwan, we are certain that such patriots cannot carry their community with them. The seriousness of the position can be seen from the evidence of Mr. W. Swain, C.I.E., Inspector-General of Police, Bihar and Orissa, who has forcibly pointed out the difficulty he experiences in dealing with the frequent requests made for Hindu and non-Muslim officers by the Hindus and for Muslim and non-Hindu officers by the Muslims during times of communal trouble.

20. This principle of representation in the Public Services has been widely recognised as the following extracts will show: Sir Malcolm Hailey, as Home Member of the Government of India, announced in 1923 that " the definite policy of the Government of India is to prevent the preponderance of any community, caste or creed in the services under it."

The Memorandum of the Government of India on the Superior Services addressed to the Commission, states as follows : " One problem which has come prominently to the fore in consequence of the extensive policy of Indianisation is that of the minority communities. Under a system of unrestricted competition, experience showed that the Hindu community would practically monopolise the superior services. This was a position against which the minority communities, and in particular the Muhammadan community, protested vigorously and the justice of that protest has been recognised by the Government of India. Consequently as a general rule, provision has been made for withholding from competition approximately one-third of the vacancies, so that if the results of the competition necessitate such action the places may be filled by nominating fully competent members of minority communities. That system is at present working satisfactorily in the Indian Civil Service and the Indian Police Service in that there is no lack of qualified candidates of minority communities for appointment by nomination."

Again, the local Government in their Memorandum on Minority Communities (E. B. & O. 116 C) under the heading " Existing Safeguards," say—" They (Muslims) hold about one-fifth of the posts in the gazetted services of which recruitment is made by the local Government." They point out in their confidential memorandum that " the local Government recognise the importance on the point of the uplift of a community that it should have members in the Public Services, subject to keeping a high standard of efficiency....."

We would reiterate again our firm conviction that in whatever phase democracy comes to India the work to be done by the services will be no less important than it has been in the past. Whilst urging the claims of the Muhammadan community we do not suggest that appointments should be made without regard to educational attainments. We consider that the present system of appointments to the Provincial Services, whereby

candidates are placed on probation and confirmed after satisfying certain general tests and passing certain departmental examinations, should be maintained.

In this province we have a precedent in the Registration Department where 33 per cent. of the appointments are given to Muhammadans. This reservation is due to an order of the late Sir Rameshwara Singh of Darbhanga passed whilst he was Member of the Executive Council.

The acceptance of this principle in European countries has been dealt with by Dr. Shafa'at Ahmad Khan in his " Explanatory note " on the report of the Committee of the United Provinces Legislative Council and we do not propose to discuss this further as we have nothing to add to those remarks.

21. We admit, with some feeling of shame, that the Muhammadan community is more backward educationally than the Hindu community. The reason for this cannot be better put than in the words of those two widely recognised authorities, Mr. E. C. Bayley and Sir William Hunter. The former says, " Is it any subject for wonder that they (Muslims) held aloof from a system (of education) which however good in itself, made no concession to the prejudices, made in fact no provision for what they estimated their necessities, and which was in its nature antagonistic to their interests and at variance with their social traditions." The latter says, " The astute Hindu has covered the country with schools adapted to the wants of his own community but wholly unsuited to the Muhammadan. The language of our Government schools is Hindi and the masters are Hindus."

22. Before leaving this point we would again invite attention to the scanty facilities which exist for Urdu education in this province. The following table justifies both our apprehensions and determination to secure improved facilities :—

1		Percentage of Muslim pupils to total No. of pupils in College stages. 2	Percentage of Muslim pupils to total No. of pupils in high stages. 3	Percentage of Muslim pupils in middle stages. 4
1921-22	...	18·8	12·6	8·1
1925-26	...	16·8	12·0	7·3
1926-27	...	14·8	11·9	7·3

Urdu Language and Education.

23. The position in this province is peculiarly unfortunate. Till 1837 Persian was the Court language. For the period

1837 to 1880 Urdu was the Court language and the script, and though it afterwards continued to be the Court language the script was changed to Hindi and Devanagri. The change has proved a great handicap to the Muhammadans.

Though during the five years 1918-22 over 50 per cent. of the University students offered Urdu in the Intermediate and B.A. examinations, and though 60 per cent. of the documents for registration are presented in that script, we have been unable to secure the adoption of Urdu as an optional script in courts owing to the opposition of the majority community. The difficulties which the Muhammadan community feel in this matter are similar to those in Ireland and certain newer countries of Europe, notably Poland and Latvia. The difficulty has been satisfactorily overcome in those countries and we feel that the misguided opposition of a fortunately placed majority should not be allowed to prevent an equitable solution in this province.

General.

24. Our views on the safeguard question have been reinforced by the recent introduction in the Legislative Council of a bill, which we expect will be passed in spite of opposition from the Government benches, whose object is to place a ban on cow slaughter. Without a definite security against such discriminatory legislation political progress can only be an embittered struggle. In this claim for security we are supported by the Associated Chambers of Commerce who have pointed out the danger of discriminatory legislation by the Assembly.

25. In advocating the above safeguards we are voicing the unanimous wishes of the Muhammadan community and assert, without any fear of contradiction, that no new constitution will be wholly acceptable to the Muhammadans unless these safeguards are incorporated in a Statutory form. It may be possible to do this on lines similar to section 96-B (2) of the Government of India Act, 1919, which runs " to make rules for regulating the classification of the Civil Services in India, to the method of their recruitment, their conditions of service, pay, and allowances, discipline, and conduct, such rules may, to such extent and in reference to such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or to the local Government." We would, however, press for the important qualification that the Secretary of State should be the ultimate authority responsible for rules framed for the protection of minorities, and any delegation should be to the Governor-General and the Governors rather than to the central and local Governments. The power of amendment of Statutes conferring these safeguards should in no circumstances rest with the central or local Governments, but should remain with the Imperial Parliament at Westminster.

IV.—Composition of the Legislative Council.

26. We recommend that the strength of the Council should be increased to 125, of which 100 seats should be by election and 25 by nomination by the Governor. We strongly recommend that the Muhammadans should have 25 per cent of the elected seats.

27. We consider that the castes outside the Hindu hierarchy of Kayestha, and Karans, Babhans, Rajputs, Baidyas and Brahmans should be given a fair representation in the legislature. 50 per cent. of the Hindu elected seats could well be given to the five Hindu castes named above, who however constitute only 13 per cent. of the population of the province, and the remaining 50 per cent. should be reserved for other castes on lines similar to the reservation in the Madras Presidency for non-Brahmins and in the Bombay Presidency for Mahrattas. The European community should be given two seats in the new legislature.

We consider that the depressed classes should continue to be represented by nominated candidates and that the Bengali domiciled community should be represented by five members, one to be elected from each division.

The Governor should have complete discretion in the nomination of either officials or non-officials to the 25 seats at his disposal.

Muhammadan representation.

28.—(1) The Muhammadans, even with 25 per cent. of the seats reserved for them, need the support of 27 other members before they can be certain of carrying through the causes which they espouse. We would point out that in the Legislative Council of pre-Reform days four of the 19 seats were reserved for the Muhammadans, whilst they were also free to contest general constituencies which they did occasionally with success until the grave communal riots at Shahabad in 1917 finally closed this means of securing the representation to which their historical position in the Province entitles them.

Similarly in the old Imperial Council one-third of the seats were reserved for Muhammadans.

Past and present practice therefore offer ample justification for our claim that not less than 25 per cent. should be the representation of the Muslims in the Legislative Council.

The proposal that the percentage of reserved seats should be proportionate to the population, and that Muhammadans should be free to contest any of the general constituencies, rests on the entirely untenable assumption that the Muhammadans will be able to secure such seats in competition with Hindu candidates.

29. In the evidence before the Commission it was pointed out that the five leading Hindu castes constitute only 13 per cent. of the population though they form 90 per cent. of the Hindu strength and 65 per cent. of the total strength of the Legislative Council. The justification for this is said to be the historical

importance of these castes and we cannot but suggest that this justification can be urged, with much more force, by the Muhammadans for a proportion of seats which will bear a closer relation to the population than the case of five Hindu castes referred to above.

30. That the Muhammadans have been given grounds for hoping that their claim will be met will appear from the pledge given by Lord Minto to a Muslim deputation which waited upon him in 1906. His Excellency said: " . . . and you justly claim that your position should be estimated not only on your numerical strength, but in respect to the political importance of your community and the service it has rendered to the Empire. I am entirely in accord with you." Another pledge is found in the speech of Lord Morley made in the House of Lords in February, 1909, during the second reading of the Government of India Bill. " The Muslims demand three things. I had the pleasure of receiving a deputation from them, and I know very well what is in their minds. They demand an election of their own representatives to these Councils in all the stages just as in Cyprus, where I think the Muslims vote by themselves; they have nine votes and the non-Muslims have three, or the other way about; so in Bohemia, where the Germans vote alone, and have their own register; therefore, we are not without precedent and parallel for the idea of a separate register. Secondly they want a number of seats in excess of their numerical strength. These two demands we are quite ready and intend to meet in full."

In conclusion we would add a suggestion that the life of the Council should be increased from three to five years.

V.—Provincial Autonomy.

31. We agree with the majority report that Provincial autonomy should be granted in the new constitution with the qualifications discussed below.

VI.—Second Chamber.

32. We are uncompromisingly opposed to the idea of a Second Chamber in the provinces on the general political grounds that if the first Chamber is correctly representative of the people the Second Chamber must be superfluous, whilst the knowledge that a Second Chamber has the power of veto must inevitably produce a sense of irresponsibility in the lower house. As far as provincial Governments are concerned we consider that there is nothing to be said in favour of a Second Chamber and though this institution is embodied in the constitutions of the States of the American Union, we would refer to the criticisms of Munro taken from his book on the " Government of the United States." " It increases the cost and the complexity of the law-making machinery; it facilitates, even actively encourages, the making of the laws by a process of compromise, bargaining and log-

rolling; it compels all legislative proposals to follow a circuitous route on their way to final enactment; it provides countless opportunities for obstruction and delay; and it makes for the shifting of responsibility for unpopular legislation. Finally, it has proved a barrier to the planning of the laws."

South Africa has not introduced the idea in any of the provinces which make up the Union, and only in four States of the Australian Commonwealth does the Second Chamber function, and there only with indifferent success.

A further argument, which applies with peculiar force to this impoverished province, is that a Second Chamber, the annual cost of which is estimated to be 1½ lakhs, will be an expensive luxury.

We consider that special precautions which have been proposed for the constitution of the Legislative Council and the powers which it is proposed that the Governor should exercise, will make a second Chamber unnecessary, but should the recommendation of our Hindu colleagues be accepted, we suggest a drastic amendment in the scheme so as to secure that the upper house shall have at least 25 per cent. of Muslim representation and shall not have that preponderance of landlords which is the essence of their proposal. If there is to be a Second Chamber the Muhammadans should have the same percentage of representation which they have in the lower house and the Governor should have the same powers of nomination.

VII.—Position of the Governor.

33. The proposal in paragraph 16 of the confidential memorandum of the local Government is entirely satisfactory.

We would also recommend that the Governor should be empowered to certify any Bill which he considers essential in the interests of any minority community.

VIII.—Law and Order.

34. We earnestly advocate the proposal contained in the confidential memorandum of the local Government that Law and Order should continue to be a Reserved subject. We have given this matter our fullest consideration and are confident that our community and a large section of the public outside it, will not consider our views reactionary but will see in this recommendation the expression of a widely held conviction that not until our politicians have proved in less important spheres of administration their ability to discharge responsibility, can we entrust them with the protection of our lives and property and the vindication of our rights in the Courts of Justice. We strongly support the proposal made by the local Government in their Memorandum.

IX.—All-India Services.

35. The proportion of Europeans in these Services should in no case be reduced beyond the limits accepted as a result of the

recommendations of the Lee Commission. From the evidence placed before it the Commission is aware of the strong demand for European officers based on the excellent work which they are rendering. We cannot afford to lose the services of European officers who, by their traditions and training, are qualified to play a prominent part in the constitutional and economic developments ahead of us.

With the qualification that the proportion of Indian officers for these services should be recruited from this province, we accept the recommendations of the local Government.

X.—Finance.

36. The finances of this province have formed the subject of two pamphlets prepared by the local Government with which we are in entire agreement.

A comparison with the professional and the cultivating classes shows that the land-holding class enjoy an exceptionally light burden of taxation and we consider that no attempt to put the finances of this province on a more satisfactory footing can succeed unless there is a drastic revision in the amount of taxes paid by the landed classes. Investment of capital in trade, industry and Government securities contributes to the general revenue through income-tax and super-tax and there is no solid reason why investment in landed property should enjoy its present immunity from taxation. We are under no delusion as to the fact that any further instalment of reforms will increase the cost of the administration and consider that the landholding community is the only section of the public which can bear the necessary taxation.

We propose the following graduated scale for a super-tax on incomes from landed property :—

Income from landed property.	*Super-tax.*
Up to Rs. 75,000	—
Rs. 75,000 to Rs. 1,00,000 ...	30 per cent. of the excess over Rs. 75,000.
Rs. 1,00,000 to Rs. 2,00,000 ...	40 ditto ditto Rs. 1,00,000.
Rs. 2,00,000 to Rs. 4,00,000 ...	50 ditto ditto Rs. 2,00,000.
Rs. 4,00,000 to Rs. 8,00,000 ...	60 ditto ditto Rs. 4,00,000.

Any excess over 8 lakhs should be taxed at the rate of 70 per cent.

37. There are strong grounds for reconsidering the decision whereby the local Government had to renounce all claims to minerals found in permanently-settled estates. As 70 per cent. of India's production of coal is mined in this province the revenue from this source would have been of inestimable value in meeting the cost of expensive schemes for extending educational facilities and medical relief which are at present held in abeyance owing to lack of funds.

The only other suggestions which occur to us for repairing the finances of this province are the imposition of death duties on the English model and a fairer allocation to the provincial government of revenue raised by the central Government.

XI.—Central Government.

38. We cannot at this stage suggest any changes in the constitution of the executive and the legislature of the Central Government. We anticipate that the Government of this country will ultimately be a federation of which the Indian native states will be voluntary members. In this event we think the Central Government should be charged with the responsibility for the administration of certain specified subjects of all-India concern and that residuary powers should be vested in the local Governments.

XII.—Backward Tracts.

39. With the one qualification that the Sadr Subdivision of the district of Angul should be included in the Oriya speaking tracts, for which a separate administration is recommended, we agree with the observations of the local Government in paragraph 45 of their Memorandum on Backward Tracts.

XIII.—Orissa.

40. We have no doubt of the depth of feeling behind the Oriya claim that the Oriya speaking tracts should be constituted into a separate province. We consider that the legitimate aspirations of the people of Orissa, voiced by the Oriya delegation which waited on the Commission and which were thoroughly investigated by a special sub-committee, should be granted.

Conclusion.

41. This Report does not by any means profess to be an exhaustive statement of our views. It voices the expectations of the Muhammadan community for the progressive development of constitutional government; for the maintenance of the connection with Britain through the Imperial Parliament and with the help of the European element in the all-India Services; and for the enactment of Parliamentary Statutes which will secure to the minority communities a just share in the administration of the country and the preservation of their own special culture and high traditions. We need hardly point out that it is necessity born of experience and not cautious or reactionary motives which impels us to ask that the safeguards which we have advocated should be made our inviolable right whatever the form of the constitution to be given to India.

The preparation of this Report has been a heavy and hurried task owing to the fact that up to a fortnight ago we had no knowledge of any acute differences of opinion between us and our Hindu colleagues, and it was only the precipitate despatch

of the majority report which finally convinced us of the complete defection of our colleagues from the principles which, throughout the first eight months of the Committee's existence, had been the accepted basis of all our discussions.

42. In conclusion we take this opportunity to tender our grateful thanks to the Chairman and members of the Indian Statutory Commission for the courtesy and facilities which they granted us during the joint free conference in Patna and to record our appreciation of the services of Mr. J. A. Hubback, I.C.S., who, during his period of duty as Reforms Officer, never spared himself in the work of supplying material to enable the Committee to form their conclusions.

SYED MOHAMED ATHAR HOSAIN.

SYED MOBARAK ALI.

Ranchi.

14th September, 1929.

ANNEXURE.

The Resolution adopted at Delhi by representative conference of Muhammadans held under the presidency of His Highness the Aga Khan.

" Whereas, in view of India's vast extent and the ethnological, linguistic, administrative and geographical or territorial divisions, the only form of Government suitable to Indian conditions is a federal system with complete autonomy and residuary powers vested in the constituent states, the Central Government having control only of such matters of common interest as may be specifically entrusted to it by the constitution :

" And whereas it is essential that no bill, resolution, motion or amendment regarding inter-communal matters be moved, discussed or passed by any legislature, central or provincial, if a three-fourths majority of the members of either the Hindu or the Muslim community affected thereby in that legislature oppose the introduction, discussion or passing of such bill, resolution, motion or amendment :

" And whereas the right of Muslims to elect their representatives on the various Indian Legislatures through separate electorates is now the law of the land and Muslims cannot be deprived of that right without their consent :

" And whereas in the conditions existing at present in India and so long as those conditions continue to exist, representation in various Legislatures and other statutory self-governing bodies of Muslim through their own separate electorates is essential in order to bring into existence a really representative, democratic government :

" And whereas as long as Musalmans are not satisfied that their rights and interests are adequately safeguarded in the constitution, they will in no way consent to the establishment of joint electorates, whether with or without conditions :

" And whereas, for the purposes aforesaid, it is essential that Musalmans should have their due share in the central and provincial cabinets :

" And whereas it is essential that representation of Musalmans in the various legislatures and other statutory self-governing bodies should be based on a plan whereby the Muslim majority in those provinces where Musalmans constitute a majority of population shall in no way be affected and in the provinces in which Musalmans constitute a minority they shall have a representation in no case less than that enjoyed by them under the existing law :

" And whereas representative Muslim gatherings in all provinces in India have unanimously resolved that with a view to provide adequate safeguards for the protection of Muslim interests in India as a whole, Musalmans should have the right of 33 per cent. representation in the Central Legislature and this Conference entirely endorses that demand :

" And whereas on ethnological, linguistic, geographical and administrative grounds the province of Sindh has no affinity whatever with the rest of the Bombay Presidency and its unconditional constitution into a separate province possessing its own separate legislative and administrative machinery on the same lines as in other provinces of India, is essential in the interests of its people, the Hindu minority in Sindh being given adequate and effective representation in excess of their proportion in the population as may be given to Musalmans in the provinces in which they constitute a minority of population :

" And whereas the introduction of constitutional reforms in the N. W. F. Province and Baluchistan along such lines as may be adopted in other provinces of India is essential not only in the interests of those provinces but also of the constitutional advance of India as a whole, the Hindu minorities in those provinces being given adequate and effective representation in excess of their proportion, in the population as is given to the Muslim community in provinces in which it constitutes a minority of the population :

" And whereas it is essential in the interests of Indian administration that provision should be made in the constitution giving Muslims their adequate share along with other Indians in all services of the State and on all statutory self-governing bodies, having due regard to the requirements of efficiency :

" And whereas, having regard to the political conditions obtaining in India, it is essential that the Indan constitution should embody adequate safeguards for protection and promotion

of Muslim education, languages, religion, personal law and Muslim charitable institutions, and for their due share in grants-in-aid :

" And whereas it is essential that the constitution should provide that no change in the Indian constitution shall, after its inauguration, be made by the Central Legislature except with the concurrence of all the states constituting the Indian federation :

" This Conference emphatically declares that no constitution, by whomsoever proposed or devised, will be acceptable to Indian Musalmans unless it conforms with the principles embodied in this resolution."

Report

of the

Assam Committee.

PART I.—EXPLANATORY.

In this part of our report we propose to explain the main changes that we have recommended in the constitution, the recommendations themselves being detailed in another part.

2. The most important change that we have suggested is the introduction of full responsible government in the province. All the subjects now classed as provincial, including Police, should in future be administered by ministers responsible to the legislature. Our grounds for this recommendation are as follows :—

(*a*) The extracts from the speeches of successive Governors appended hereto will show that the first instalment of reforms has been a success in Assam. An advance is therefore justified and the Government of Assam have themselves proposed a generous advance by definitely recommending that dyarchy should no longer continue.

(*b*) The progressive realisation of responsible government in India is the declared policy of the British Parliament. Responsibilty in the provinces is a step in the process, and some time or other that step will have to be taken, if the pledge is to be fulfilled. We believe that it would be wise to take it now while the atmosphere in the province is one of comparative good will.

(*c*) It may be hoped that with the introduction of full responsible government all the energy that is now devoted to the task of destroying dyarchy will be diverted to constructive work.

3. We have given anxious thought to the subject of Police in particular and have come to the conclusion that it should be transferred to popular control along with other provincial subjects. Besides the general grounds already mentioned, we have in this instance been moved by certain special considerations :—

(*a*) To transfer all other subjects and reserve only the subject of Police would inevitably result in concentrating the attack of the legislature on the Police department.

(*b*) The Assam Police Association, an association of the Inspectors, Sub-Inspectors and Assistant Sub-Inspectors of the province who, it would be true to say, are the backbone of the provincial Police administration, in the memorandum that was summarised at the Joint Conference of January 5, 1929, in Shillong, have by a majority recommended the transfer of Police in order to rid the department of its present unpopularity and for other reasons. These officers know their own daily difficulties best and their opinion should not be ignored.

(*c*) The Inspector General of Police, Assam, in his evidence before the Joint Conference admitted that recruiting would be more satisfactory if the leading non-officials of the province co-operated and that co-operation on the part of

the people at large would make for greater efficiency in the force. His exact words are worth quoting : " Without their help, I do not think that we shall be able to do very much more than we are doing now. We are doing our best with the force we have, the force that comes to us, and the officers who apply for appointment. If you want anything better, then we want the assistance of the leading people in the province." We doubt if the necessary co-operation and assistance will be forthcoming until the department is placed under popular control.

(*d*) No department can be run efficiently unless it can get the legislation it needs from time to time. For example, there is a well-known section in the Indian Code of Criminal Procedure (section 162) which has frequently been criticised as a serious handicap to the police in their daily work. But the legislature can hardly be expected to remove this or any other handicap and entrust larger powers to a body of men over whom it has no effective control.

4. Fears have been expressed that popular control might mean constant interference and a resulting loss of efficiency. Control of course implies the right to interfere and opinions will always differ as to whether interference in a particular case was justified or not. We recall that even when the British House of Commons intervened last year in a well-known case, there were not wanting critics outside the House who invited the responsible Minister to " turn his lively intelligence in some other direction " than interfering with the police. (Hansard, Parliamentary Debates—Volume 220, Column 809).

5. We recognise that it would be unwise to introduce full responsible government without providing any safeguards and we have therefore attempted to suggest some. The main safeguard we propose is that of suspending the entire constitution in any province in certain grave emergencies, such as financial insolvency or neglect to maintain law and order. We hope that the occasion for the exercise of this power will never arise, but we think that some authority should be vested with that power. We have accordingly proposed that on the recommendation of the Government of India, His Majesty the King should have power by Order in Council to suspend the constitution in any province for a specified period in certain specified circumstances and to make suitable arrangements for the carrying on of the government of the province during that period. We are of opinion that the power to take so extreme a step should not be exercisable without the joint concurrence of the authorities in India and the authorities in England. Hence the form of our proposal, requiring as a condition precedent the recommendation of the Government of India and the concurrence of the King in Council. We may point out that under Devolution Rule 6, under the present Government of India Act, the revocation or suspension

of the transfer of any provincial subject requires the joint concurrence of the Government of India and of the Secretary of State in Council.

6. Far more useful, however, than a safeguard which can operate only when things have actually gone wrong is a safeguard which will prevent things going wrong. We have accordingly proposed that the cabinet should be provided with a council, mainly advisory in its functions and consisting for the most part of experienced permanent officials. We say "mainly advisory," because in certain matters of exceptional importance we have recommended that its advice should be binding. For brevity and for want of a better name we shall refer to this council in the sequel as the administrative council. (A council of this character is not altogether a constitutional innovation, for, even in the present Government of India Act, we find that the Secretary of State is provided with a very simliar body of advisers, the Council of India. Just as the India Council is meant to be "a council composed of able men conversant with Indian affairs who may give information and advice to the responsible ministers of the Crown in regard to Indian affairs,"* so we intend our administrative council to be composed of able men experienced in the administration of the province who may give information and advice to the provincial ministers, some of whom will doubtless be new to office. Just as the Secretary of State can override his council except in certain matters of major importance, we have proposed that the provincial cabinet should not as a rule be bound by the advice of the administrative council; but just as there are exceptions in the one case, we have proposed that there should be exceptions in the other. One of the principal exceptions in the case of the Secretary of State's Council is that relating to rules for the recruitment and control of the civil services in India (*vide* section 96E of the Government of India Act). No such rules can be made by the Secretary of State except with the concurrence of the majority of his council. Analogously we have recommended that the cabinet should be bound by the advice of the administrative council in matters relating to the recruitment and control of the provincial services. In other words, the administrative council will, amongst other things, be the local public service commission, a body that we regard as indispensable. For the rest, we have suggested that the local legislature should have power to add to the controlling, as distinct from the advisory, functions of the administrative council from time to time. For example, if a province finds that its administrative council is a safer agency than its ministry for the purpose of making land revenue settlements or other contracts involving the disposal of Crown property, it should have power by legislation to provide that such settlements or contracts should not be made except

* Sir Malcolm Seton's "India Office," 1926, p. 25.

with the sanction, or in accordance with rules which have received the sanction, of the administrative council. Recent events in Bardoli have shown how necessary it is to have an expert *quasi*-judicial body to deal with land revenue settlements in order to prevent provincial governments making mistakes similar to those made in Bombay. By giving power to the local legislature in this way to add to the control exercisable by the administrative council, a certain measure of elasticity will be imported into the constitution and it may be possible to provide for the differing circumstances of different provinces at different times within one general scheme.

7. It may be said that by creating a council of this kind we shall be making the administration even more top-heavy than it is at present. We would, however, point out that we have not recommended either a special financial adviser or a special local public service commission or a second chamber. We would also point out that the ministers of the future will have to devote more and more of their attention to studying and educating public opinion, and will have less and less time for the details of day-to-day administration.

8. As regards the composition of the administrative council, our idea is that it should be a non-political, *quasi*-judicial body. In the larger provinces it may be divided into committees each dealing with a certain group of subjects, a committee on education, a committee on public health, and so on; but for Assam we think a council of three members dealing with all subjects would suffice. The members may be appointed by the Government of India on the recommendation of the provincial government, certain minimum qualifications for appointment being laid down in the constitution. The tenure of office of each member may suitably be five years, at the end of which he should be eligible for re-appointment if he continues to possess the other requisite qualifications.

9. It has been hinted to us as a possibility that at the next financial settlement the provinces may be assigned a certain share of some central or centrally-collected taxes, the proceeds of which would be earmarked for expenditure on specified subjects of national importance such as primary education. It has also been suggested that in return it would be reasonable for the Central Government to claim some measure of control in the administration of those subjects. It seems to us that control is not a logical consequence of contribution. For instance, under the Meston Settlement the provinces had to contribute to the central exchequer, but we are not aware that they were on that account given any control over the central administration. The question of control is one that should be dealt with on its own merits and quite independently of any particular scheme of allocation of revenues. We think that an administrative council such as we have proposed, in the composition of which the central

government has the final voice, should be sufficient for purposes of control in matters like primary education which no province is likely to neglect if it is provided with the necessary means and the necessary advice.

10. In our recommendations as to the relations between the Governor, the Cabinet, and the legislature our intention has been to make them as nearly as possible identical with those that prevail by convention between the Crown, the Cabinet, and the House of Commons in England. Here again, although we have not said so in our actual recommendations, we should like a certain measure of elasticity in the constitution if it can be provided. Some of us feel greatly attracted by the system adopted in the South African constitution under which ministers or, as they are there called, members of the provincial executive committees, are elected by the provincial council after each general election according to the system of proportional representation. They have thus security of tenure during the life-time of each council, which is three years. A similar system appears to obtain in Switzerland, the Federal Council being elected for a term of three years by the Federal Legislature. We are not sure that this would not be the wisest plan for the provinces in India also, at any rate until stable parties have evolved. We would therefore suggest that although the English system may be adopted for the present, some discretion should be left to each provincial legislature to introduce by legislation the South African system, if at any time it considers the latter to be better suited to the conditions of the province.

11. We have recommended that the provincial legislature should be unicameral. We believe that in the component states, cantons, or provinces, of federal commonwealths a second chamber is the exception rather than the rule, and we are not yet convinced that there are sufficient grounds for having an exceptional institution of this kind in this province. We would point out that under our proposals the Governor can return, reserve, or veto legislation, restore in cases of emergency grants essential to the safety or tranquillity of the province and dissolve the legislative council before its normal term. We have also recommended an advisory council for the Cabinet. These proposals if accepted should render a second chamber largely superfluous.

12. As to the franchise we have recommended either universal suffrage or universal household suffrage with an age limit in each instance, the choice between these alternatives being left to the local legislature. We think that at least the second of these alternatives is essential if the labouring and backward classes are to have an effective voice in an elected council, and although so considerable an extension of the franchise might increase the cost of elections, we believe that the cost must be incurred in the general interests of the country. According

to the census of 1921, there are about sixteen lakhs of occupied houses in the province; we have proposed seventy-six general constituencies for the new council, so that on the basis of household franchise, there would be about twenty thousand voters in each on an average. The number may be large, but it is much smaller than the present number of voters in some of the general constituencies in Bengal.

13. The composition of the council needs a few words of explanation. According to our proposals the new council will consist of ninety-five elected members and not more than five nominated members. There will be no official *bloc*, the only officials, if any, being those (not exceeding two in number) whom the Governor may nominate as experts for the purposes of any particular bill. Normally therefore there will be ninety-eight non-official members. In the present council there are forty-six non-official members, elected or nominated. Of these forty-six, at least five, more often seven, and sometimes even eight have been Europeans, or on an average, about fourteen per cent. The Muhammadan community has had fourteen representatives, or a little over thirty per cent. Bearing these percentages in mind we have in our recommendations given the prospect of fourteen seats to Europeans and of at least thirty-one to Muhammadans out of the ninety-eight non-official seats. We have also recommended a revision of the Muhammadan quota after each decennial census. We are particularly anxious that minority communities should not start with a sense of grievance in the new constitution and we would rather they were slightly over-represented than that they should consider themselves under-represented. Two of the fourteen European seats call for special notice. We have suggested that the candidature for these seats should be confined to Europeans, but the election should be by local bodies. Our original idea was that the members should be elected by the entire electorate, Indian and European; but this would have meant an enormous electorate, and hence the introduction of local bodies in the scheme. One of the most valuable elements in India is the European who looks beyond the interests of his own business or community; rather than leave out this element, we have sought to give it representation, albeit by an unorthodox mode of election.

14. In the distribution of legislative powers between the provinces and the centre we have recommended that the plan of the present Government of India Act should be retained. That is to say, the provincial legislatures should be competent to legislate on central subjects and the central legislature on provincial subjects with the previous sanction, in each case, of the Governor General. We are not aware that this plan has caused any practical inconvenience in the past and we would therefore hesitate to suggest any modification of it. The

only new provision which we should like to see inserted in the constitution, if possible, is one laying down the broad grounds on which the previous sanction of the Governor General may be withheld.

15. As regards the financial powers of the provincial legislature our recommendations will have the effect of giving it complete control of appropriations, subject to one important exception, namely, that the Governor may in cases of emergency authorise such expenditure as may be in his opinion necessary for the safety or tranquillity of the province. This exceptional power is meant to be used only in grave emergencies.

16. On the question of provincial autonomy we have recommended that the control of the central government over the local government should in the revised constitution be restricted in respect of all provincial subjects in the same manner as it is now restricted in respect of the transferred subjects. The central government will therefore continue to have a certain measure of control over the provincial administration although not so extensive as at present. This seems to us to be essential. If, for example, Bengal and Assam cannot agree as to the amount which Assam should pay to Bengal on account of the services of the Calcutta High Court, there must be some superior authority which can decide the issue. Unless, therefore, we provide some such institution as a supreme court, it seems essential that the power of final decision in such matters should be vested in the Government of India. We presume that any provincial expenditure which may be necessary in virtue of an order passed by the central government in the exercise of any statutory power of " superintendence, direction, and control " reserved to it, will be " non-voted " exactly as if it were expenditure " prescribed by law " within the meaning of section 72D(3) of the Government of India Act.

17. We have suggested that the Indian Civil Service and the Indian Police Service should continue for the present to be " All-India " services, the recruitment and control of which should be vested in a central public service commission. This recommendation coupled with any provisions similar to those of section 98 of the Government of India Act may conflict with provincial autonomy in the strictest sense of the word, but so far as we are aware, no one has yet advocated provincial autonomy in its strictest sense. No one has yet recommended, for instance, that each province should have unrestricted power to appoint its own Governors and its own High Court Judges at its own discretion and on its own terms. The whole question of provincial autonomy seems to us to be one of degree of drawing the line a little higher or a little lower. We believe that it is worth while drawing the line a little lower in order to make sure of getting the best available talent in all India for

the most important appointments in each province. Ultimately we hope even these two services will be provincialised.

18. Towards the end of our recommendations we have referred to certain points of law arising out of the Government of India Act. The first relates to section 32 (2) which defines the liability of the Secretary of State in Council to suit. We invite attention to two reported Indian cases :—

(1) I. L. R. 37 All. 338.
(2) I.L.R. 39 Mad. 351.

To show how difficult it often is to ascertain the law on this point and how unsatisfactory the law is when ascertained. For a layman at least it is hard to understand why for instance, when the Government is making a road, it should be exempt from liability for the negligence of its employees, whereas a private employer in similar circumstances is not exempt. Immunity of this kind is hardly calculated to promote strict supervision in the conduct of government business. We think that at the next revision of the constitution there should be an extension of the field of liability of the state to suit.

19. The other point arises out of the language of sub-section (7) of sections 67 and 72D of the Government of India Act. It seems fairly clear that even as it now stands, the privilege conferred by the second sentence of the sub-section is absolute and not qualified by the restriction contained in the first; but in view of doubts expressed in certain quarters, it is desirable that no room for controversy should be left on the point.

20. We have considered it unnecessary to deal in detail with the subject of the allocation of revenues between the central and the provincial governments. We have called attention to a few salient points; we dealt with the subject in fuller detail in a preliminary note which we submitted to the Commission and which we hope will receive careful consideration.

21. We have not in this report touched upon the constitution of the central government, feeling that we have not had either the time or the materials to study the subject thoroughly.

22. Except in matters specifically mentioned in our recommendations we think that no legislature in India should have power to make any change in the revised constitution during the next ten years. But after that period the Indian legislature should have that power.

PART II.—RECOMMENDATIONS.

We make the following recommendations and for convenience of comparison arrange them in the same order as the recommendations made by the Government of Assam in their memorandum to the Statutory Commission.

I.—Pages 27-32 of the Government Memorandum.

Franchise.

1.—(*a*) In the general constituencies we recommend universal suffrage for all persons of not less than 25 years of age, with open voting for those who cannot read and write. We are aware of the arguments against universal suffrage; but it does away with the need for special representation for backward communities, reduces the temptation to bribery by increasing the number of votes to be bought, makes the Council more representative of the province, and on the whole, presents advantages which in our opinion outweigh its disadvantages. We advocate open voting for the illiterate, because this will make the task of recording votes easier and cheaper, while ensuring the correctness of the record. Secret voting, however desirable in theory, is impracticable for persons of this class and any attempt to secure it would, we fear, be a waste of effort.

(*b*) As an alternative to universal suffrage with an age limit as recommended above, we would suggest universal household suffrage, *i.e.*, a vote for each occupied house. The occupied house is a recognised census unit and is also the unit of assessment for village watch and ward in certain parts of the province. There should therefore be no difficulty in registration.

(*c*) As to which of these two alternatives should be adopted may be left to the local legislature to decide. Thus the provision in the constitution might run somewhat as follows :—

"The qualifications of electors for Governors' legislative councils shall be such as the councils may by law prescribe, provided that every British subject of sound mind aged 21 years or upwards, being a householder, shall have a vote."

Composition of Council.

2. The Assam Legislative Council should consist of 95 elected members and not more than five members nominated by the Governor.

3.—(i) Of the five members that may be nominated by the Governor, one must represent the backward tracts if, as we have recommended, the powers of the council, legislative and financial, in respect of these tracts continue as at present. The other four nominations should be optional. These include the two referred to in paragraph 66 of the Government memorandum. We agree that the Governor of Assam should be given power to nominate two members under proviso (*b*) to section 72A (2) of the Government of India Act instead of one as at present. The remaining two members must be non-officials nominated solely for the purpose of securing adequate representation for any important communities or interests that have failed to obtain it through election, and not for the purpose of stabilising the Ministry.

(ii) The 95 elected members should be distributed thus :—

(*a*) Thirteen seats to be reserved for the tea industry, of which two shall be reserved for Indians.

(*b*) Two seats to be reserved for the European community, one for the Assam Valley and one for the Surma Valley. The candidature is to be restricted to Europeans, but the members will be elected by the local and municipal boards in each Valley. We should have preferred the election to be by the entire electorate, European and Indian; but this being impracticable, we have proposed election by local bodies.

(*c*) Two seats to be reserved for commerce and industry; one for Europeans; one for Indians.

(*d*) Two seats to be reserved for landholders; one for those of Sylhet, one for those of Goalpara.

(*e*) One seat to be allowed to the British portion of the Khasi and Jaintia Hills district (including the British portion of Shillong).

(*f*) The remaining 75 seats to be distributed amongst Muhammadan and non-Muhammadan general constituencies, 31 being allotted to the Muhammadan and 44 to the non-Muhammadan community. We recommend that there should be separate electorates and separate representation for the two communities for the present. On the completion of the census of the year 1931 and of each subsequent decennial census the Governor should have power to redistribute these 75 seats, increasing or decreasing the Muhammadan quota on some equitable basis according as the percentage of the Muhammadan population increases or decreases

In the special constituencies for tea and commerce and industry, any candidate, European or Indian as the case may be who is a voter in any constituency, general or special, should be eligible for election.

4. We have anxiously considered the question of representation for labour and have arrived at the conclusion that the most satisfactory solution of the problem is to be found in an extension of the franchise rather than in the creation of special constituencies. It seems to us that if any form of special electorate had been practicable, it would perhaps have been prescribed by now by regulation under Assam Electoral Rule 3. We have therefore proposed, instead, a large extension of the franchise. With the suffrage we have suggested, labour may be able to secure adequate representation through the general constituencies, failing which the Governor would doubtless use his power of nomination to make up the deficiency. Similar observations apply to the primitive races and backward classes in the province.

Second Chamber.

5. We do not agree with the Government of Assam in the statement at page 160 of their memorandum that there is no suitable material for a Second Chamber in Assam, although we are not yet convinced that its utility would justify its existence, and in particular the expense involved. But if a Second Chamber is considered necessary, an efficient Second Chamber can be constituted in this province.

Representation in the Indian legislature.

6. As regards the Indian legislature we recommend that—

(*a*) the representation of Assam in the Legislative Assembly should be on the basis of area as well as population;

(*b*) all provinces, large or small, should be equally represented in the Council of State, which should be, so to speak, a council of provinces.

We also recommend in this connection that the financial settlement that will be made at the next revision of the constitution should not be liable to be altered except as the result of an Act of the Indian legislature agreed to by not less than two-thirds of the total number of members of the Council of State. This and recommendation (*b*) above are necessary if the interests of the smaller provinces are to be safeguarded.

II.—Pages 48-50 of the Government Memorandum.

Territorial constitution of province.

1. We do not recommend any territorial change in the constitution of the province. Neither Sylhet nor any part of Goalpara should be transferred to Bengal.

We would, however, suggest a change in section 60 of the Government of India Act. Under the section as it stands, the Government of India can transfer a portion of a district from one province to another, unless the transfer is subsequently disallowed by the Secretary of State in Council. But, for the transfer of an entire district, the previous sanction of the Crown signified by the Secretary of State in Council is required. We believe that the boundaries of a district can be altered even by a local government, so that what is an entire district at one time may be only a portion of a district at another and *vice versa*. There does not therefore seem to be any such fundamental difference between an entire district and a portion of a district as to justify a fundamental difference of procedure for transfer. We would invite attention in this connection to the provisions of section 123 of the Commonwealth of Australia Constitution Act or section 149 of the South Africa Act, 1909, and would suggest for consideration whether power cannot be given to the Indian legislature to transfer territory from one province to another on the petition or with the consent of the provincial legislature of every province affected by the transfer.

[One of us (Srijut Mukunda Narayan Barua) dissents from this paragraph of our recommendations.]

Backward tracts.

2.—(*a*) We are of opinion that the " Backward tracts " also should continue to be part of the province of Assam. They are a potential source of wealth; they add to the attractions of the province from the point of view of recruitment; and contact with the more civilised parts of the province is likely to benefit them; they should therefore be retained in Assam, instead of being segregated into a separate province.

Khasi and Jaintia Hills in no sense " backward."

(*b*) As to the precise manner in which these tracts should be administered in the best interests of the inhabitants, we feel that we do not know enough at first hand about most of them to recommend any change in the present system. Only as regards the Khasi and Jaintia Hills, which we do know, we would record our opinion that the district is in no sense " backward " and should no longer be classed with the " backward tracts "; it should be brought fully under the reformed constitution. So far as the other " backward tracts " are concerned, we would merely point out that section 52A (2) of the Government of India Act is wide enough to cover almost any form of administration that the Government of India with His Majesty's sanction, may think fit to prescribe; it is simply a matter of issuing the appropriate notification; no change in the section itself seems necessary and, as already stated, we are not in a position to recommend any change in the notification now in force.

Full jurisdiction of the Calcutta High Court to be extended to the Khasi and Jaintia Hills.

(*c*) As a corollary to our recommendation that the Khasi and Jaintia Hills should in future be placed on the same footing as any of the plains districts, we should like particularly to add that there is no longer any justification for excluding these hills from the jurisdiction of the Calcutta High Court so far as the administration of justice is concerned. The High Court exercised jurisdiction in this area at one time and, so far as European British subjects are concerned, still does so to a certain extent; we suggest that the full jurisdiction of the Court should be restored, so that in this respect also the district may enjoy the same privileges as a plains district.

III.—Pages 157-160 of the Government Memorandum.

Form of government in the province.

1. We agree with the Government of Assam that dyarchy should go and all subjects, including Police, in future be administered by Ministers responsible to the legislature. The subjects

now provincial should without any material change continue provincial.

2. There should be four Ministers in Assam, to be appointed by the Governor and holding office during his pleasure. The Governor should appoint the Chief Minister, and on his advice the other three Ministers; there should be joint responsibility amongst all the Ministers.

3. The life-time of the council should be five years, provided that it may be sooner dissolved by the Governor.

4. The pay of the Ministers should be fixed by an Act of the local legislature, not requiring annual renewal.

5. We do not recommend any special majority for a vote of no-confidence. A bare majority should suffice for this purpose, as it would for refusal of supplies.

6. We do not see any necessity for a permanent Financial Adviser. For ordinary purposes, the financial secretary's advice should be sufficient and if special advice is required on any complicated scheme, the Government can pay for the services of a special adviser for the occasion.

7. We do not think that the power of the Government of India to make regulations under section 71 of the Government of India Act should continue except possibly as regards the "backward tracts."

8. The power of the Governor-General to make temporary ordinances in cases of emergency under section 72 of the Government of India Act should remain.

9. We venture to suggest that the Governor should not be a member of the Cabinet, so that his name may be kept out of party politics. The Chief Minister should preside at Cabinet meetings, distribute portfolios, and make business rules.

10. As the Ministers hold office during the Governor's pleasure, the strictly legal position is that he has power to dismiss all or any of them at any time. This necessarily implies that he has also power to override any decision of the Cabinet; for, if the difference of opinion be fundamental, either the Cabinet would resign or the Governor would dismiss it.

It may not be possible to lay down in the constitution the precise circumstances in which the Governor should exercise his power of dismissing the Cabinet or of dissolving the Council. In these matters the British convention may be followed; in fact it may have to be followed, owing to the financial powers of the Council.

11.—(*a*) The Governor should have power to authorise in cases of emergency such expenditure as may be in his opinion necessary for the safety or tranquillity of the province.

(*b*) On the recommendation of the Government of India, His Majesty the King should have power, by Order in Council,

to suspend the constitution for any specified period in any province in the event of a breakdown, or of neglect to maintain law and order, or of financial insolvency, and to make proper arrangements for the carrying on of the government of the province during the period of suspension.

12. To prevent log-rolling, the provisions of section 72D (*c*) and section 80C of the Government of India Act should remain.

13. The powers of the Governor and of the Governor-General under sections 81 and 81A of the Government of India Act relating to legislation should remain.

14. The Governor should continue to have the power to summon, prorogue, and dissolve the legislative council; and the provisions requiring his approval or concurrence to the appointment or removal of the president or deputy president should be retained.

15. The power to appoint election commissioners and to decide questions of interpretation of the electoral rules should continue to remain with the Governor.

16. We doubt the expediency of laying upon the Governor the responsibility of deciding in cases of doubt whether questions proposed to be asked in council are admissible or not. It is desirable that the occasions for conflict between the Governor and the council should be reduced to a minimum. For the same reason we think that the council should be left to make its own standing orders.

Powers of the Central Government.

17. The powers of superintendence, direction, and control of the Government of India over the local government should, in the revised constitution, be restricted in respect of all provincial subjects in the same manner as they are now restricted in respect of the transferred subjects.

IV.—Pages 167-168 of the Government Memorandum.

Control over provincial legislation on central or quasi-central subjects.

1. We think that the provisions of section 80A of the Government of India Act requiring the previous sanction of the Governor General to provincial legislation in certain cases should remain. It would be convenient if some indication could be given in the Act of the broad grounds on which previous sanction may be withheld.

2. We do not recommend any change in item 8 of Schedule II to the Scheduled Taxes Rules. Any such change as is recommended by the Government of Assam might enable a province with a port to penalise goods entering it from another province,

not so fortunate, without the previous sanction of the Governor General. We regard the Governor General's previous sanction as a necessary safeguard.

V.—Pages 176-179 of the Government Memorandum.

1. We are of opinion that the Indian Civil Service and the Indian Police Service should be " All-India " services for the present and that all other services should be provincialised. By an " All-India " service we mean a service recruited and controlled by an " All-India " agency, and by a provincial service we mean one recruited and controlled by a provincial agency.

Public Services—Administrative Council.

2. We agree that the recruitment and control of the public services should be vested in a public service commission free from political influences, a central commission for the " All-India " services and a local commission for the rest. It may be that there would not be enough work in Assam for a local public service commission unless it were given other functions as well; but we think that such a body is essential and that other functions can be given to it with considerable advantage. We would observe at the outset that such a commission, even if it did no other work, would have to be a non-political and *quasi*-judicial body; non-political in order to ensure that appointments in the public service might not be influenced by party, and *quasi*-judicial, in order to ensure that appeals by public servants against orders of punishment might be properly heard. To be non-political it will have to be composed for the most part of permanent officials, who, by enforced habit, belong to no party; to provide the judicial element, one of the members whether official or non-official, will have to be a judge or lawyer. We are thus led to a body of at least three, two of whom shall be senior permanent officials and the third a non-official, at least one of the three being a highly qualified judge or lawyer. It seems to us that a body so composed might well be given other functions, besides those of a public service commission. We would suggest, for instance, that all settlements of land revenue, all proposals in the finance, police or judicial departments, and in fact, all important proposals in any department should be submitted to the cabinet through this body. In such matters, it would act as an advisory council to the cabinet, subject only to two conditions, which should be part of the constitution,

(i) that the cabinet must consult it;

(ii) that its advice when received must be considered by the cabinet as a whole.

We assume that it would, and in any case recommend that it should, be open to the local legislature to give it more than advisory powers in respect of some of these or other matters later

on, by appropriate legislation, *e.g.*, in the disposal of Crown property, in the control of local authorities, etc. What we feel is that if there is to be set up, as we think there must be, a local public service commission in Assam, the administrative experience and judicial detachment which it must possess in order to command public confidence should be utilised, at least for purposes of advice, in other branches of the administration also and especially in those branches where an uninformed cabinet might, with the best of intentions, make mistakes. Whether a body with the functions we have suggested should be called a public service commission or by some more comprehensive name, such as " administrative council " is a detail. A more comprehensive name would of course be better. What we propose in essence is an advisory council to the cabinet, whose advice is to be taken in all important matters,, but is to be binding under the constitution itself only in those relating to the recruitment and control of the public services.

Interpretation of certain sections of the Government of India Act.

VI.—We should like, in conclusion, to refer to two small matters not mentioned in the Government memorandum :—

(1) Section 32 (2) of the Government of India Act. It may be considered whether the liability of the state (" the Secretary of State in Council ") to suit cannot be defined with greater precision than is done here.

(2) Section 67 (7) and 72D (7) of the Act. By omission of the first sentence or otherwise, it may be made clear that the privilege conferred by the second is absolute.

Financial Settlement.

VII.—We do not propose in this report to deal in any great detail with what is known as the Meston Settlement; we would only invite attention to a few salient factors.

(1) The disparity in level of administration between province and province which was the legacy of the pre-reform period and which the Meston Settlement did not sufficiently allow for in the case of Assam should be taken into account at the next financial settlement.

(2) By way of illustrating this disparity in the case of Assam, we would mention the following facts :—

(*a*) Assam is the only province in India without a University of its own.

(*b*) It is the only province without a High Court or Chief Court.

(*c*) It does not possess a single college for the training of teachers or for higher education in agriculture, engineering, veterinary science, or medicine.

(*d*) There is not a single hospital for women in the province.

(*e*) We believe that Assam has the largest incidence, as well as the fewest facilities for treatment, of leprosy in India.

(*f*) Communications within the province are the poorest in India. In a certain district it may sometimes take the Deputy Commissioner longer to get from the district headquarters to the subdivisional headquarters than it would take him to get to Bombay.

(3) It is true that Assam has a comparatively small population, but it is by no means small in area. This means that as regards those heads of expenditure which depend on area rather than population, *e.g.*, expenditure on communications, Assam's needs are considerable while it has comparatively few people to pay for them. A province larger than England and Wales can hardly manage on an annual revenue of about £2,000,000.

(4) Relatively to its population, Assam is the largest opium-consuming province in India and it derives at present about 30 lakhs of rupees annually from opium. This source of revenue is doomed to early extinction, the Government of Assam being pledged to the policy of stopping the state sale of opium as soon as possible.

(5) Since 1921 Assam has paid out of its meagre revenues a sum of over 80 lakhs of rupees as provincial contribution to the Central Government under the Meston Settlement, while certain richer provinces with a higher level of administration have been exempt. Due allowance for the arrested development of the province which was the necessary result of this burden should be made in the next financial settlement.

We suggest therefore that the next financial settlement should provide for a special central contribution to this province in view of its past history, its present low level of administration, and its future needs. What particular form the contribution should take we leave it to the Commission to decide.

W. D. SMILES.
AMARNATH RAY.
MUNAWWARALI.
ARZAN ALI MAZUMDAR.
KERAMAT ALI.
S. DOWERAH.
*M. N. BOROOAH.

12th May, 1929.

* NOTE OF DISSENT.

I regret that I cannot agree with the other members of the Provincial Committee in their recommendations about the question of any territorial change in the Constitution of the Province of Assam. It will not be of any advantage to the Province as a whole or to any of its parts, to retain within its fold any unwilling partner. The provinces should be homogeneous as far as possible. The entire district of Sylhet and the permanently settled portion of Goalpara, want to go over to Bengal. But last year a resolution was passed in the local Council to keep Sylhet in Assam. If that be the view of the people of that district, that district may remain in Assam. But it is said that only a certain section of Sylhet wants to stay and this desire to remain in Assam is not at all universal though it has been accepted by the Council. Even if Sylhet remain in Assam, that cannot be any reason to keep in Assam the permanently settled portion of Goalpara against the wishes of the people of that place of which I represent a large section. On the other hand I do not think the transfer of the permanently settled area of Goalpara will affect the province either financially or in status or in any other way. Taking everything into consideration, I strongly recommend its transfer to Bengal and more so if in such transfer, the law, language and the social customs of the area concerned are taken into consderation. Moreover the language question, if Sylhet and the permanently settled portion of Goalpara be retained in Assam, will be insoluble in future with Bengali and Assamese standing out equally powerful, to be the language of the provincial Administration.

Further I do not agree with the observations and recommendations of my colleagues with regard to the power of the Governor-General in Council to transfer a portion of a district from one province to another without the previous sanction of the Crown signified by the Secretary of State in Council, as contained in Section 60 of the Government of India Act. I think that no change is called for in Section 60 of the Government of India Act. A part of a district must necessarily be a smaller area than an entire district and the transfer of such a small area from one province to another is not likely to affect to any appreciable extent any of the provinces concerned in such transfer. Such transfers are necessarily petty, and unimportant, and generally no very big principles are involved in them. But in the case of a transfer of an entire district, necessarily a big area, from one province to another, the status and the finances of the province from which the district is transferred, are often affected.

I sign this report, subject to this, my note of dissent.

M. N. BOROOAH.

APPENDIX.

I.—Extract from the speech of Sir WILLIAM MARRIS, Governor of Assam, on the 14th September, 1922.

(Assam Legislative Council Debates, Vol. II, 1922, page 817.)

* * *

We on our part, gladly acknowledge that the legislature, with whatever force and earnestness it has thought right to press its views, has never been obdurate or unreasonable; and in particular I desire heartily to acknowledge the assistance which it has repeatedly given us in coping with a most difficult financial situation. In a word, I think it may be claimed, that the first two years of the reformed constitution have been passed in Assam not merely without friction or hostility, but also with positive gain; in that each party has realised more of the other's position, and with that understanding has, I hope, acquired greater respect and sympathy for the other's views. Such was the hypothesis

on which the superstructure of reforms was based, and I am happy to think that in Assam it has been found strong enough to support the weight imposed upon it.

II.—Extract from the speech of Sir JOHN KERR, Governor of Assam, on the 12th April, 1923.

(Assam Council Debates, Vol. III, page 499.)

* * *

I do not want to flatter you, but I must say that in the dignity and decorum of your proceedings, in your freedom from personalities, in your respect for the Chair and in the common sense and moderation which you have displayed in discussing public questions, you have shown an example which might well be followed by the legislative council of another province with which I happen to be well acquainted.

* * *

III.—Extract from the speech of Sir WILLIAM REID (Acting Governor of Assam) on the 12th September, 1925.

(Assam Council Debates, Vol. V, page 1589.)

* * *

I would only say that it is to me a matter of pride and satisfaction that we in this province have made the most of the Reforms. And if the faith that is in us held out in adversity when the Ministers had the will but not the means to make things better than they found them, shall it fail now that at least a modest provision can be made for any measures for the public good which they propose and you approve? I am confident that when the Royal Commission sits, the evidence will be overwhelming that Assam has done its best with its present constitution, and that it will be found worthy to share to the fullest in the next measure of advance.

* * *

IV.—Extract from the speech of Sir JOHN KERR, Governor of Assam, on the 30th September, 1926.

(Assam Council Debates, Vol. VI, pages 988-992.)

* * *

I have here this evening to bid farewell to the second Legislative Council of Assam under the Reforms. Before the time comes in the ordinary course for the dissolution of the third Council, the Royal Commission which is to examine the working of the Reforms and to advise on further changes will have been appointed and it may even have actually started work. It is quite time therefore for us to begin to take stock of our position, to consider what sort of a show we shall be able to put up before the Royal Commission, and what proposals we shall make to it. The last point will be a matter for you rather than for the Government of the day, but the Government will no doubt be expected to report on the doings and proceedings of the three councils whose work will be reviewed by the Royal Commission. I think I may say at once that the first and second Councils will have no reason to be ashamed of their records, and I will give you a very brief sketch of what those records are.

Largely owing to the attention which you have paid to the opium question and to your insistence on the necessity for reform, we have adopted a policy of restricting issues to registered consumers. . . . Perhaps of all the achievements which have taken place during the lifetime of this Council and with its active co-operation and support, the

most important is the success of the campaign against the *kala azar*. When I first came here nearly four years ago and when I first met the Honourable Minister,.....he described to me the measures which he had in contemplation for dealing with this dread disease. I felt then that it was an enormous undertaking which might be beyond our measures financially and otherwise. However, we determined to do our best and the Council has helped us nobly. We may now say that victory, if not in sight, is assured. Five years ago we had few treatment centres in the province outside the ordinary Government and local board hospitals and dispensaries. We have now 425 treatment centres run by 128 medical men. As a result of their labours a death-rate of 90 per cent. has been converted into a recovery rate of the same percentage and it is not overstating the case to say that at least 200,000 lives have been saved by *kala azar* treatment during the last five years. I do not ask you to accept my own assurance as to the success of *kala azar* work in Assam. I will quote from the last Report of the great School of Tropical Medicine in Calcutta. In that report the Directors of the School say, in referring to Assam: "The progress in the campaign against *kala azar* has been phenomenally rapid and if it continues at the present rate, there is an excellent prospect of the dread scourge being brought under complete control in a few years. The success of the campaign will have far-reaching effects. It will create such confidence in medical science that conditions may be favourable for a revolution in public health measures." That, gentlemen, is the opinion of a highly competent and impartial body and you and I may well be proud of the success which has been achieved in this respect during a period in which we have been jointly responsible for the administration of the Province.

* * *

Many other things I could mention if time permitted, but I must content myself with congratulating the Council on the absence from our proceedings of a topic which has been only too much to the fore recently in other parts of India—I mean the deplorable outbreak of communal ill-feeling.

* * *

V.—Extract from the speech of Sir JOHN KERR, Governor of Assam, on the 23rd February, 1927.

(Assam Council Debates, Vol. VII, page 12.)

* * *

I shall not be here when the time comes, in the ordinary course, for the dissolution of this Council or for the appointment of the Royal Commission, but I have every hope that this Council will maintain the reputation which was earned, and well earned, by the first two Legislative Councils of Assam under the Reforms, for sobriety and sanity of thought and action, and for a single-minded desire to work for the welfare of the province and the many diverse races who inhabit it.

* * *

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